

**THE COLLABORATIVE ROLE OF THE PRESBYTERAL COUNCIL IN THE
GOVERNANCE OF A DIOCESE**

John E. OKOSUN

Thesis 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

Faculty of Canon Law
Saint Paul University

© John E. OKOSUN, Ottawa, Canada, 2012

Abstract

This thesis aims at establishing the juridical significance of the collaborative role of the presbyteral council in diocesan governance and proposes some concrete means through which this collaboration may be fostered in the particular Churches. It traces the historical antecedents to the presbyteral council and posits that since the beginning of Christianity, those who govern in the Church have always been assigned some kind of consultative and collaborative organs, made up of priests in most cases, and they were obliged to hear or obtain their consent in more important matters. Hence at different times in history, the presbyteral colleges, the cathedral chapter and the diocesan consultors emerged as organs which played this role. With the Second Vatican Council, there was a call for a new consultative body which would reflect the theology of Vatican II by focusing on unity of mission between bishops and priests; accordingly the council fathers called for the establishment of the presbyteral council. The thesis takes a step further to give an expository analysis of the current law on the presbyteral council, it alludes that the presbyteral council which represents the presbyterium of the diocese, is consultative in nature and is called to assist the diocesan bishop in the governance of the diocese through advice. It says categorically that, it is obligatory for every diocese to establish this council and makes it clear that the statutes of the presbyteral council are important instruments in the realization of the goals of this council. It then analysis the statutes of thirty one North American archdioceses and highlights those elements which should form part of good statutes, these include the nature, role, manner of acting and the method of determining membership of the council. Finally, it brings out other factors which could help to foster the collaborative role of the council in the governance of the local Church; these include the way priests are formed, the style of governance of the bishop, the life style of priests, the way priests are prepared for the election of council members and the ability of members to assert their proper role.

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
ACKNOWLEDGEMENTS	vii
ABBREVIATIONS	viii
INTRODUCTION	1

CHAPTER ONE

HISTORICAL ANTECEDENTS TO AND MODERN DEVELOPMENT OF THE PRESBYTERAL COUNCIL

INTRODUCTION	6
1.1- PRESBYTERAL COLLEGES IN THE APOSTOLIC PERIOD	6
1.1.1. The Presbyteral Colleges of Jerusalem	7
1.1.2. The Presbyteral Colleges outside Jerusalem	8
1.2- PRESBYTERAL COLLEGES IN THE PATRISTIC PERIOD	10
1.2.1. Clement of Rome (ca. 96 AD)	10
1.2.2. Ignatius of Antioch (ca. 110 AD)	11
1.2.3. Polycarp of Smyrna (ca. 135 AD)	13
1.2.4. Apostolic Tradition of Hippolytus of Rome (ca. 215 AD)	13
1.2.5. The <i>Didascalia Apostolorum</i> (ca. 230 AD)	14
1.2.6. St Cyprian of Carthage (ca. 249-258 AD)	15
1.3- THE DECLINE OF PRESBYTERAL COLLEGES	16
1.3.1. Expansion of the Church	16
1.3.2. Decline of Collegiality	17
1.3.3. Remnants of Collegiality	18
1.4- EMERGENCE OF THE CATHEDRAL CHAPTER AS THE BISHOP'S SENATE	19
1.4.1. Cathedral Chapter in the Decretal Law	20
1.4.2. Cathedral Chapter in the <i>CIC</i> 1917	23
1.5- EMERGENCE OF THE DIOCESAN CONSULTORS	24
1.5.1. Diocesan Consultors before the 1917 Code	25
1.5.2. Diocesan Consultors in the 1917 Code	33

1.6- THE CONCILIAR AND POST CONCILIAR DEVELOPMENT OF THE PRESBYTERAL COUNCIL	37
1.6.1. <i>Lumen gentium</i>	38
1.6.2. <i>Christus Dominus</i>	40
1.6.3. <i>Presbyterorum ordinis</i>	40
1.6.4. <i>Ecclesiae Sanctae</i> (1966)	44
1.6.5. Circular Letter <i>Presbyteri sacra</i> (1970)	46
1.6.6. <i>Ultimis temporibus</i> (1971)	50
1.6.7. <i>Ecclesiae imago</i> (1973)	51

CONCLUSION	53
------------	----

CHAPTER TWO

THE PRESBYTERAL COUNCIL IN THE 1983 CODE OF CANON LAW AND SUBSEQUENT DOCUMENTS OF THE HOLY SEE

INTRODUCTION	55
2.1- NOTION OF THE PRESBYTERAL COUNCIL IN THE 1983 CODE	56
2.1.1. Representative of the Presbyterium	56
2.1.2. An Advisory Body to the Bishop	58
2.1.3. An Obligatory Organ of Governance	59
2.1.4. Consultative in Nature	61
2.1.4.1 The Concept of Consultation	61
2.1.4.2 Consultative Voice and Consent	63
2.1.4.3 The Significance of Consensus	66
2.1.5. Diocesan in Scope	70
2.2- COMPOSITION OF THE PRESBYTERAL COUNCIL	71
2.2.1. Significance of the Norms of the Conference of Bishops	71
2.2.2. The Manner of Constituting the Presbyteral Council	72
2.2.3. Membership of the Presbyteral Council	73
2.2.3.1 Membership by Election	75
2.2.3.2 Membership <i>ex officio</i>	78
2.2.3.3 Membership by Appointment	79
2.2.4. Size of Membership	80
2.2.5. Tenure of Membership	80
2.2.6. Statutes	81
2.3- MANNER OF OPERATION	83
2.3.1. Convocation and President of the Council	83
2.3.2. Agenda for Meetings	85

2.3.3. The Acts of the Council	86
2.3.4. Committees of the Council	87
2.4- THE DISSOLUTION OF THE COUNCIL	88
2.4.1. <i>A iure</i> Dissolution	89
2.4.2. Dissolution by the Bishop	89
2.5- THE PRESBYTERAL COUNCIL AND GOOD GOVERNANCE IN THE DIOCESE	90
2.5.1. Good Governance	90
2.5.2. Collaboration	93
2.5.3. When the Law Requires Counsel	95
2.5.4. When the Law Requires Consent	96
2.6- COMPARISON WITH OTHER DIOCESAN CONSULTATIVE ORGANS	97
2.6.1. The College of Consultors	97
2.6.2. The Pastoral Council	99
2.7- THE PRESBYTERAL COUNCIL IN THE 1990 EASTERN CODE	100
2.7.1. Establishment and Role	101
2.7.2. Statutes	102
2.7.3. Membership	102
2.7.4. Right of Election	103
2.7.5. Method of Election	103
2.7.6. Relationship to the Eparchial Bishop	104
2.7.7. Term of Office and the Dissolution of the Council	106
2.8- OTHER JURIDICAL TEXTS OF THE HOLY SEE AFTER THE 1983 CODE	107
2.8.1. <i>Ecclesiae de mysterio</i> (1997)	108
2.8.2. <i>Pastores gregis</i> (2003)	108
2.8.3. <i>Apostolorum successores</i> (2004)	109
2.8.3.1 Enriched Content of the Document	110
2.8.3.2 New Areas of Pastoral Collaboration in the Document	113
CONCLUSION	115

CHAPTER THREE

THE COLLABORATIVE ROLE OF THE PRESBYTERAL COUNCIL FROM A PARTICULAR LAW PERSPECTIVE

INTRODUCTION	118
--------------	-----

3.1- COLLABORATIVE ROLE OF THE COUNCIL IN THE STATUTES	119
3.1.1. Awareness of Collaborative Role as Suggested by the Number of Responses	119
3.1.2. The Collaborative Role of the Council Evidenced in Preambles to Statutes	121
3.1.3. Collaborative Role of Council Evidenced in the Declaration of Purpose	122
3.2- CONFORMITY OF STATUTES WITH THE CODE AND PARTICULAR LAWS	123
3.2.1. As Representative of the <i>Presbyterium</i>	124
3.2.2. Assisting the Bishop	127
3.2.3. Approval of Statutes and Conformity to the Norms of the Conference of Bishops	129
3.2.4. Designation of Council Members	131
3.2.4.1 Membership by Election	132
3.2.4.2 <i>Ex officio</i> Members	136
3.2.4.3 Membership by Appointment	139
3.2.5. Active and Passive Voice	140
3.2.6. Election Procedure	144
3.2.6.1 Three Models of Election Procedure	144
3.2.6.2 Degree of Detail on Election Procedures	151
3.2.6.3 Matters Pertaining to Elections to be Included in Statutes	152
3.2.7. Council Meetings	154
3.2.8. Publishing the Acts of the Council	159
3.2.9. Term of Office	159
3.3- SIGNIFICANT MEANS OF COLLABORATION IN THE STATUTES	163
3.3.1. Collaboration in Preparation of Agenda	163
3.3.2. Committee Work	165
3.3.3. Consultation of Others	167
CONCLUSION	168

CHAPTER FOUR

FOSTERING THE COLLABORATIVE ROLE OF THE PRESBYTERAL COUNCIL

INTRODUCTION	170
4.1- INITIAL AND ONGOING FORMATION OF PRIESTS	171
4.1.1. The Initial Formation of Priests	171

4.1.1.1 The Notion of Church as a Communion	172
4.1.1.2 The Notion of Ecclesiastical Governance	176
4.1.1.3 Training in Human Maturity and the Formation of Conscience	178
4.1.2. Ongoing Formation of Priests	180
4.2- THE BISHOP'S STYLE OF GOVERNANCE	182
4.2.1. Openness to Sincere Dialogue	183
4.2.2. Transparency	184
4.2.3. Accountability	185
4.2.4. Modelling a Collaborative Style of Governance	186
4.3- THE ROLE OF PRIESTS IN FOSTERING COLLABORATION	186
4.3.1. Values Promoting Collaboration	187
4.3.1.1 Communitarian Approach to Ministry	187
4.3.1.2 Shared Responsibility in the Affairs of the Diocese	187
4.3.1.3 Good Will in Electing Members	188
4.3.2. The Manner of Conducting Council Activities	189
4.3.2.1 Respect for the Bishop and the Laws Governing the Council	189
4.3.2.2 Asserting the Council's Proper Role	189
4.4- NATURE AND CONTENT OF THE STATUTES OF THE COUNCIL	190
4.4.1. Instruments Fostering the Collaborative Role	191
4.4.2. Important Elements to be Included	192
4.4.2.1 Nature and Purpose	192
4.4.2.2 Establishment, Membership, Tenure	193
4.4.2.3 <i>Modus operandi</i>	194
4.5- PREPARATION FOR AND CONDUCT OF ELECTION	195
4.5.1. Seminar on the Collaborative Role	195
4.5.2. Advance Notice of Election	196
4.5.3. Method of Election	196
CONCLUSION	197
GENERAL CONCLUSION	199
BIBLIOGRAPHY	207

ACKNOWLEDGEMENTS

I thank God for the gifts he has bestowed on me and for the grace to pursue my doctoral research. To my late father Anthony Okosun, my mother Lucy Okosun, I express my heartfelt thanks for the sacrifice they made to educate me and my other siblings. I am grateful to Archbishop P. Ekpu who initiated the pursuit of my doctoral studies and Bishop A. Akubeze through whom this dream was realized. I thank the various archbishops and their representatives who responded to my request for the statutes of their presbyteral councils. My thanks go also to Bishop G. Dunia for his moral support.

My gratitude goes to the Dean of the Faculty of Canon Law, Prof. Anne Asselin, and all the professors of the Faculty for their guidance and support. I express my profound gratitude to my supervisor, Prof. John Huels, for his tireless efforts, promptness, conviction, motivation, suggestions and fraternal respect. I am grateful to Prof. Chad Glendinning for finding time to read through some sections of this work.

I acknowledge with gratitude the support I received from the University of St. Paul and the Faculty of Canon Law in the pursuit of this degree. I remember with gratitude the former support staff, B. Kavanaugh and S. Jutras. I thank the present support staff of the faculty, F. Quesnel, L. Kitts and A. Primo, for their help. I also thank the librarians and the entire staff of St. Paul University for their love and warmth. To the students of the faculty of Canon Law, my Nigerian colleagues Frs. E. Omorogbe, A. Ayeni and Sr. S. Giegbefumwen, I express my gratitude.

In a special way I thank Fr. P. Champoux and staff of Holy Redeemer parish Kanata for their love and moral support. I thank the wonderful parishioners of Holy Redeemer, notably: J. Rosario, J. Dupuis, A. Riva, M. O'Leary, J. McAuley, M. Poirtier, Mari Lu, F. Cervo, Xuan Le, C. Maheral, M. McDonald, J. Marincak, Deacon Paul and Nancy, Mr. and Mrs. Brannan, Mr. and Mrs. Koss, Mr. and Mrs. W. Machado, Mr. and Mrs. J. McDougall, Mr. and Mrs. S. Dulude, Mr. and Mrs. S. Ankomah, Mr. and Mrs. H. Vandergeest, Mr. and Mrs. J. Smyth, Mr. and Mrs. B. Hartlin, Mr. and Mrs. P. Balaraj, Mr. and Mrs. J. Muldoon, Mr. and Mrs. Ian Nute, Mr. and Mrs. W. Smith, Mr. and Mrs. J. Moore, Mr. and Mrs. M. Tate, Mr. and Mrs. M. Sibayan, Mr. and Mrs. J. Milan, Mr. and Mrs. G. Meloney, Mr. and Mrs. J. L'Abbe, Mr. and Mrs. A. Rodrigues, Mr. and Mrs. J. Conroy, Mr. and Mrs. V. Ogbechi, Mr. and Mrs. R. Sarrazin, Mr. and Mrs. P. Power, Mr. and Mrs. B. Smith, Mr. and Mrs. P. Szkurhan, Mr. and Mrs. K. Smith, Mr. and Mrs. R. Fournier, Mr. and Mrs. R. Brunet, Mr. and Mrs. P. Church, Mr. and Mrs. P. Dooley, Mr. and Mrs. D. Hozjan, Mr. and Mrs. P. O'Hare, Mr. and Mrs. B. McNulty, Mr. and Mrs. B. Bisson, Mr. and Mrs. E. Sheilds, Mr. and Mrs. B. Radych, Mr. and Mrs. T. Flood, Mr and Mrs. T. VanDoorMaal, and others too numerous to be mentioned.

My acknowledgements will not be complete without expressing my appreciation to my brothers and sisters and my numerous friends in different parts of the world, who gave me the encouragement and moral support to complete this program. To them all and to every other person who has played a role in my life, I say thank you, and may God reward you all.

ABBREVIATIONS

<i>AA</i>	SECOND VATICAN COUNCIL, decree <i>Apostolicam actuositatem</i>
<i>AAS</i>	<i>Acta Apostolicae Sedis</i>
<i>AG</i>	SECOND VATICAN COUNCIL, decree <i>Ad gentes</i>
<i>AS</i>	CONGREGATION FOR BISHOPS, <i>Directory for the Pastoral Ministry of Bishops (Apostolorum successores)</i> , 22 February 2004
CCCB	Canadian Conference of Catholic Bishops
<i>CCEO</i>	<i>Codex canonum Ecclesiarum orientalium</i>
<i>CCLA</i>	CAPARROS, E. et al. (eds.), <i>Code of Canon Law Annotated</i>
<i>CD</i>	SECOND VATICAN COUNCIL, decree <i>Christus Dominus</i>
<i>CIC</i>	<i>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus</i>
<i>CIC/17</i>	<i>Codex iuris canonici, Pii X Pontificis maximi iussu digestus</i>
<i>CLD</i>	<i>Canon Law Digest</i>
<i>CLSA</i>	Canon Law Society of America
<i>CLSA Comm1</i>	CORIDEN, J., T.J. GREEN, and D.E. HEINTSCHEL (eds.), <i>The Code of Canon Law: A Text and Commentary</i>
<i>CLSA Comm2</i>	BEAL, J.P., J.A. CORIDEN, T.J. GREEN (eds.), <i>New Commentary on the Code of Canon Law</i>
<i>CLSAP</i>	<i>Canon Law Society of American Proceedings</i>
<i>CLSGBI Comm</i>	SHEEHY, G. et al. (eds.), <i>The Canon Law Letter & Spirit</i>
<i>CN</i>	CONGREGATION FOR THE DOCTRINE OF FAITH, Complementary Norms for the Apostolic Constitution <i>Anglicanorum coetibus</i> , 4 November 2009.
<i>EdM</i>	CONGREGATION FOR THE CLERGY, Interdicasterial Instruction <i>Ecclesia de mysterio</i> , 15 August 1997

<i>EI</i>	SACRED CONGREGATION FOR BISHOPS, <i>Directory on the Pastoral Ministry of Bishops Ecclesiae imago</i> , 22 February 1973
<i>ES</i>	PAUL VI, Apostolic Letter <i>motu proprio</i> , <i>Ecclesiae sanctae</i> I, 6 August 1966
<i>Exegetical Comm</i>	MARZOA, A., J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), <i>Exegetical Commentary</i>
FLANNERY1	FLANNERY, A. (gen. ed.), <i>Vatican Council II</i> , vol. 1
FLANNERY2	FLANNERY, A. (gen. ed.), <i>Vatican Council II</i> , vol. 2
<i>LG</i>	SECOND VATICAN COUNCIL, dogmatic constitution <i>Lumen Gentium</i>
NCCB	National Conference of Catholic Bishops (of the USA—prior to 1 July 2001)
<i>OT</i>	SECOND VATICAN COUNCIL, decree <i>Optatam totius</i>
<i>PDV</i>	JOHN PAUL II, Post-synodal Apostolic Exhortation, <i>Pastores dabo vobis</i> , March 25, 1992
<i>PG</i>	JOHN PAUL II, Post- Synodal Apostolic Exhortation, <i>Pastores gregis</i> , 16 October 2003
<i>PO</i>	SECOND VATICAN COUNCIL, decree <i>Presbyterorum ordinis</i>
<i>SCB</i>	SACRED CONGREGATION FOR BISHOPS
<i>SCC</i>	SACRED CONGREGATION FOR THE CLERGY
USCCB	United States Conference of Catholic Bishops (since 1 July 2001)
<i>UT</i>	SYNOD OF BISHOPS, document <i>Ultimis temporibus</i> , 30 November 1971

INTRODUCTION

“Collaboration” in ministry and Church administration refers to the faithful working together, their joint efforts, their sharing initiatives and ideas in the task of building up of the body of Christ, the Church. Such collaboration has always been an essential dimension of the Church’s governance (even if it was valued more in some periods than in others). This is witnessed already in the New Testament as well as by numerous patristic authors. In the course of history, the bishops of the Church have always relied on the co-operation of the clergy and other faithful, especially those exercising the responsibility of an individual office or jointly as participants of some organ or institution whose members collaborated with the bishop in the governance of the local Church.

The Second Vatican Council provided a theological underpinning for collaboration between those in the episcopal order and those in the presbyteral order by teaching that, in the particular Church, there exists between the bishop and the priests a hierarchical communion in virtue of which the bishop and priests share one and the same ministry although in different degrees. This theological foundation implies the necessity for consultation and collaboration in ecclesial governance, a fact that the fathers at Vatican II fully recognized. As a consequence, the council called for the establishment of the presbyteral council as an institutional expression of the communion which arises from the one priesthood and ministry of Christ in which both the bishop and priests share. Accordingly, *Presbyterorum ordinis* decreed that:

[...] a group or senate of priests should be set up in a way suited to present-day needs and in a form and with rules to be determined by law. This group should

represent the body of priests and by their advice could effectively help the bishop in the management of the diocese.¹

This structure, although newly created by Vatican II, nevertheless “is heir to the presbyteral colleges of the New Testament and patristic times, and emphasizes collaboration and communication between priests and the diocesan bishop in the governance of a diocese.”² While the entire presbyterate collaborates with the diocesan bishop in the governance of the diocese, the presbyteral council symbolizes, represents and concretizes that collaboration by its direct interaction with the diocesan bishop in a manner that would ordinarily not be feasible with the entire presbyterate.³

The 1983 Code of Canon Law manifests the importance and necessity of collaborative governance at the diocesan level by making the establishment of the presbyteral council mandatory for every diocese, and it assigns to this council the role of assisting the diocesan bishop in the governance of the diocese (c. 495, §1). To further show how necessary this collaboration is, various canons of the Code oblige the diocesan bishop to consult this council before validly placing certain juridical acts. To facilitate this collaboration, canon 496 says the presbyteral council is to have its own statutes, that is, a governing document which defines its purpose, constitution, governance and manner of acting. The 1990 Code of Canons of the Eastern Churches and subsequent juridical texts have also expressed the necessity of this collaborative governance by insisting on the establishment of this council and on the need for the diocesan bishop to consult it, not

¹ *PO*, no. 7, English translation in FLANNERY 1, pp. 876-877.

² NATIONAL CONFERENCE OF CATHOLIC BISHOPS, “United in Service: Reflection on The Presbyteral Council,” in *Origins*, 21 (1991-1992), p. 411 (=NCCB, “United in Service: The Presbyteral Council”).

³ B.A. CUSACK, “The Presbyteral Council and the College of Consultors [cc. 495-502],” in *CLSA Comm2*, p. 653 (=CUSACK, “Presbyteral Council”).

just before carrying out those acts for which consultation is mandatory, but also before carrying out other acts in which the council's advice may be useful.

The presbyteral council is widely recognized as the pre-eminent consultative organ in the diocese yet, four and half decades after the Second Vatican Council and three decades after the promulgation of the 1983 Code, it is sad to note that, while a good number of dioceses have established this council and consider it an essential collaborative organ in diocesan governance, the contrary is the case in many other dioceses. In some of these latter dioceses, the canonical mandate for the bishop to establish the presbyteral council and hear its advice has not been adhered to. In some other dioceses where the council has been established, it is disparaged by the priests at large as being mere "window dressing" that simply rubber stamps the preconceived decisions of the bishop. In some places, the provisions of law regarding the organization of the council and the election of members are not followed properly, and meetings are not held when due. Some councils do not have statutes to regulate their activities, and so the council meetings become chaotic, lacking focus and ineffective. I have personally served at different times on the presbyteral councils of two different dioceses, and in neither diocese did the members have statutes to regulate and conduct their activities.

To foster the pastoral welfare of all the faithful, the fathers of the Second Vatican Council desired that the governance of the particular Churches would be characterized by collaboration, notably between the bishop and priests' representatives who would serve on what came to be known as the presbyteral council. This vision was incorporated in post-conciliar legislation, especially the 1983 Code but, still today, it remains unrealized in practice in many places due to various factors, among them ignorance of the law, the

fear of repercussions for speaking one's mind, and the simple inertia or unwillingness to do something new.

In light of these realities, a principal goal of this thesis is to establish the juridical significance of the collaborative role of the presbyteral council in diocesan governance and to propose ways through which this role may be fostered in the particular Churches.⁴ The main question that this thesis will attempt to answer therefore will be: What are the factors that will enhance the collaborative role of the presbyteral council in the governance of a diocese? A related question is: How may the statutes of the presbyteral council be drafted or amended to concretize and augment collaboration between the bishop and the presbyterate?

Chapter one examines the historical evolution of the different advisory bodies to the bishop before the emergence of the presbyteral council. This will include the study of the presbyteral colleges of the apostolic and patristic periods. We shall also explore the history and nature of the cathedral chapter and the diocesan consultors before and after the 1917 Code, examine their functions, and see how they contributed to the emergence of the presbyteral council. We will then examine the modern development of the presbyteral council from the perspective of the conciliar and post-conciliar documents of the Church.

Chapter two will analyze the concept, nature, functions and the manner of operation of the presbyteral council as presented in the 1983 Code of Canon Law. We shall likewise compare this council with the other consultative bodies in the diocese. Thereafter, we shall discuss how this council is expected to foster good governance as an

⁴ No other major canonical study on the presbyteral council has focused specifically on the ways through which particular Churches can enhance the collaborative role of the presbyteral council in their governance.

advisory body to the diocesan bishop. Our study will include a discussion of the presbyteral council in the 1990 Eastern Code and the other juridical texts of the Holy See after the 1983 Code.

Chapter three will explore the topic from the perspective of particular law⁵ by analyzing the statutes of presbyteral councils in select North American archdioceses. The goal of this analysis will be to bring out the significant elements which should form part of good statutes so that such statutes may be useful tools in fostering the collaborative role of the presbyteral council in the governance of the diocese.

Chapter four will focus on what should be done to enhance the collaborative role of the presbyteral council in the governance of a diocese. It will highlight the elements which those who are involved in the training of future priests need to pay particular attention to if they are to stimulate this spirit of collaboration in future priests. We shall also examine the kind of atmosphere which should characterize diocesan life in order to foster this collaborative spirit in the diocese. Finally, we shall discuss the qualities which council members must have, to help them relate well with the diocesan bishop and their fellow council members and thereby dispose them for fruitful meetings. We shall also discuss the necessary elements which must be included in the statutes and which must be put into consideration in the election of council members. The thesis will conclude with suggestions on how both universal and particular law can further assist this council in playing its collaborative role in diocesan governance so that the pastoral welfare of the people of God will be most effectively promoted.

⁵ The *ius particulare* includes not only diocesan legislation but also the statutes of juridical persons and other *universitates personarum aut rerum* (c. 115, §1).

CHAPTER ONE

HISTORICAL ANTECEDENTS TO AND MODERN DEVELOPMENT OF THE PRESBYTERAL COUNCIL

Introduction

Although the juridical concept “presbyteral council” had its first entry into the Code of Canon Law in 1983, the idea of such a council was not new to the Church. Since the period of the New Testament, the administration of the local church has always been accomplished with the aid of one council or the other. Hence, in this chapter, we shall attempt to trace the historical antecedents to the presbyteral council since the beginning of the Church. This will include the study of the presbyteral colleges of the apostolic and patristic periods, including the events that led to the decline of these presbyteral colleges. Since the cathedral chapter and the diocesan consultors also played some significant roles towards the emergence of the presbyteral council, we shall also explore the history of these organs, including their nature and functions before and after the 1917 Code and how they contributed to the emergence of the presbyteral council. Finally, we shall take a look into the modern development of the presbyteral council, which will include a survey of the conciliar and post-conciliar documents of the Church.

1.1 Presbyteral Colleges in the Apostolic Period

The apostolic period refers to the first period of the history of the Church covering the lifetime of the apostles, that is, from about 30 to 90 A.D.¹ The period immediately

¹ J.D. DOUGLAS et al. (eds.), *The Concise Dictionary of the Christian Tradition*, Grand Rapids, MI, Zondervan Publishing House, 1989, p. 32 (=DOUGLAS, *The Concise Dictionary*).

following A.D. 90 is usually called the subapostolic ages.² The study of the New Testament reveals that, during this period, there were presbyteral colleges both in Jerusalem and outside Jerusalem.

1.1.1 The Presbyteral Colleges of Jerusalem

The first record of the presence of a presbyteral college in the New Testament is found in Acts 11:30 which reads, “this they did, sending it to the elders by Barnabas and Saul.” G. D’Ercole opines that, although the Acts of the Apostles is silent on the origin of presbyters, they were already on the scene (as is obvious in the above-mentioned passage) in the Jerusalem community when the church of Antioch sent them the money destined for the victims of the famine then raging in Judea.³ The fact that this money was sent to them suggests that they were the trustees and administrators of the Jerusalem community.⁴

Since the circumstances that led to the origin of the presbyters are not clearly known, it is not certain whether they had specified juridical responsibilities. Nevertheless, as we read through the Acts of the Apostles, it is obvious that the presbyters of Jerusalem were joined with the apostles in resolving the controversy about the obligation of the law and of circumcision (Acts 15-16). This is an indication that they shared in the decision-making process with the apostles.⁵

² Ibid.

³ G. D’ERCOLE, “The Presbyteral Colleges in the Early Church,” E.A. CARPENTER, trans., in *Concilium*, 7 (1966), p. 12 (=D’ERCOLE, “The Presbyteral Colleges”).

⁴ Ibid.

⁵ F. SULLIVAN, *From Apostles to Bishops: The Development of the Episcopacy in the Early Church*, New York, Newman Press, 2001, p. 60 (=SULLIVAN, *From Apostles to Bishops*).

The presbyters are again associated with James in Acts 21: 17-18 which gives the account of the last visit of Paul to Jerusalem; it reads, “[w]hen we reached Jerusalem the brothers welcomed us warmly. The next day, Paul accompanied us on a visit to James and all the presbyters were present.” This suggests that although James was the leader of the Jerusalem Church at this particular time, he had the presbyters as his council.

The word “presbyters,” which literally means “older men,” was commonly used in the Old Testament to refer to authority figures among the Hebrew people; there were elders also in the Hellenistic world. These may have influenced Christians, the New People of God, in adopting the same title for authority figures in their communities.⁶ Like the elders of Israel, therefore, it is very clear that the presbyters of the (new) Christian community in Jerusalem, along with the twelve apostles, were members of the leading body of the community.⁷ T.G. Barberena alludes to the collegial feature of the presbyters in the following words: “The presbyters appear in all the early communities, and always in the plural; they appear to act as a body [...]. In the absence of the apostle, who was usually traveling, these bishops, elders or presbyters celebrate the Eucharist and govern the community collegially.”⁸

1.1.2 The Presbyteral Colleges outside Jerusalem

The Acts of the Apostles acknowledges that, as the faith spread outside Jerusalem,

⁶ Ibid.

⁷ D'ERCOLE, “The Presbyteral Colleges,” p. 12.

⁸ T.G. BARBERENA, “Collegiality at the Diocesan Level: The Western Presbyterate,” P. BURNS, trans., in *Concilium*, 1 (1965), p. 11 (=BARBERENA, “Collegiality”).

the Christian communities outside Jerusalem also had presbyteral colleges. L.B. Porter makes allusion to this, saying that the appointment of elders at the end of the first missionary journey of Paul is portrayed as a significant feature of Paul's and Barnabas' missionary labors. Hence, we are told, "they appointed presbyters for [their converts] in each Church" (Acts 14:23).⁹

Another portrait of a presbyteral college is presented to us in the Acts of the Apostles when Paul was about to end his third missionary journey. Accordingly, we are told, "[f]rom Miletus he had the presbyters of the Church of Ephesus summoned. When they came to him, he addressed them [...]" (Acts 20:17-18). L.B. Porter remarks on the significance of the speech that Paul made to the Ephesians.

In his speech to them Paul sets forth his conception of the work of a presbyter (or the cooperative work of a body of presbyters?) and in the course of his speech he uses a word which eventually will acquire awesome weight in terms of church order. The word is "overseer," in the Greek, *episkopos*, from which derives our modern word, bishop.¹⁰

G. D'Ercole summarizes the characteristic features of the ministry of the presbyters at Ephesus in the following words: "they appear as a college, especially as pastors and teachers of the faith."¹¹ Moreover, according to R. Eno, "[t]he original function of the college of presbyters was the most significant form of shared responsibility in the local church."¹²

⁹ L.B. PORTER, "Principles of Collegiality from Portraits of Presbyteral Assemblies in Acts," in *The Jurist*, 51 (1991), p. 86 (=PORTER, "Principles of Collegiality").

¹⁰ *Ibid.*, p. 87.

¹¹ D'ERCOLE, "The Presbyteral Colleges," p. 13.

¹² R.B. ENO, "Shared Responsibility in the Early Church," in *Chicago Studies*, 9 (1970), p. 134 (=ENO, "Shared Responsibility in the Early Church").

1.2 Presbyteral Colleges in the Patristic Period

The word “patristic” comes from the Latin word *patres* (fathers). Hence, the Patristic Period refers to the era of the fathers of the Church, namely, the first seven or eight centuries.¹³ Several patristic authors during this period attest to the fact that the guidance of the local community was a shared responsibility.¹⁴ These include Clement of Rome, Ignatius of Antioch, etc.

1.2.1 Clement of Rome (ca. 96 A.D.)

The first letter of Clement of Rome (A.D. 96) to the Church of Corinth testifies to a college of presbyters in Corinth.¹⁵ In that letter, Clement “exhorts its recipients to obedience, so that unity in charity will shine forth, because the bishops or presbyters are the successors of the apostles.”¹⁶ T. Barberena remarks that the *Didache* (15, 1-2) gives each Church bishops and deacons, always referred to in the plural. Hence, the famous letter of Clement was not written from one bishop to another but from one Church to another (the Church of God which is in Corinth); this was aimed at bringing out the collegiate, presbyteral government that characterized the Church in Corinth during this period.¹⁷

¹³ DOUGLAS, *The Concise Dictionary*, p. 287

¹⁴ J.E. LYNCH, “Co-responsibility in the First Five Centuries: Presbyteral Colleges and the Election of Bishops,” in *The Jurist*, 31 (1971), p. 17 (=LYNCH, “Co-responsibility in the First Five Centuries”).

¹⁵ *Ibid.*

¹⁶ BARBERENA, “Collegiality,” p. 11.

¹⁷ *Ibid.*

F.F. Bruce remarks: “It appears from the letter of Clement that the institution of the monarchical bishop was unknown also in the church of Corinth in A.D. 96; and it was equally unknown in the church of Philippi some years later when Polycarp wrote to it, shortly after the death of Ignatius, for in his letter those in authority are addressed collectively as elders.”¹⁸ J. Lynch alludes to the *Shepherd of Hermas*, another early second-century document, which confirms this conclusion.¹⁹ Hence, he says, “[t]he Roman Christian Hermas speaks of „the elders who preside over the Church,” and of „the rulers who occupy the chief seats,” but never of any one bishop. Clement appears in the *Shepherd* as the „foreign secretary” of the Roman Church.”²⁰ This reveals that the Corinthian church was under the leadership of a group of presbyters who had been appointed to their ministry. They had a role of authority in the community, and one of their functions was to celebrate the Eucharist. The presbyters were also called *episkopoi*; no one bishop was in charge of the Corinthian church at this time.²¹

1.2.2 Ignatius of Antioch (ca. 110)

It was about a decade after the trouble at Corinth that there is evidence of a more developed church organization in Asia Minor and Syria. At this time the position of the

¹⁸ F.F. BRUCE, *New Testament History*, New York, Doubleday & Company, Inc., 1971, p. 419.

¹⁹ LYNCH, “Co-responsibility in the First Five Centuries,” p. 18.

²⁰ Ibid. See also M. BÉVENOT, “Clement of Rome in Irenaeus” Succession-List,” in *Journal of Theological Studies*, 17 (1966), pp. 98ff. D.F. WRIGHT, “Clement and the Roman Succession in Irenaeus,” in *Journal of Theological Studies*, 18 (1967), pp. 144ff.

²¹ SULLIVAN, *From Apostles to Bishops*, p. 100; LYNCH, “Co-responsibility in the First Five Centuries,” p. 18.

bishop was noticeably enhanced, but the presbyteral college still remained prominent.²² Accordingly, T. Barberena says it was at this time that the figure of the bishop became distinct from the presbyters and set above them.²³ This is why in the letters of St. Ignatius the presbyters are given the title, “the council of the bishop,” and likened to the band of the apostles.²⁴

The presbyters, true councilors of the bishop, plan and set policy, not merely execute his decisions. Such is the force of the word used to explain the nature of the presbyterate, *synedrion* or *senate*. It was the same term used to designate the Sanhedrin of Jerusalem and the Areopagus of Athens. Here is a body constituted and invested with important functions, especially that of deliberation, for the governance of the community. How this power is to be exercised Ignatius does not spell out. The term *synedrion* strongly suggests an active participation on the part of the presbyters in administering the affairs of the Church.²⁵

J. Lynch goes further to relate the function of the presbyters to the threefold functions of Christ: “As the senate of the bishop the presbytery shares with him responsibility for the local Christian community. The presbyters participate in the official teaching, the public worship, and the government of the Church.”²⁶ G. D’Ercole points out that Ignatius was renowned for his marvelous passage on the harmony of thought, action, prayer and charity which must animate the Christian community united to the bishop and to the presbyters.²⁷

²² LYNCH, “Co-responsibility in the First Five Centuries,” p. 18.

²³ BARBERENA, “Collegiality,” p. 12.

²⁴ W.R. SCHOEDEL, *Ignatius of Antioch: A Commentary on the Letters of Ignatius of Antioch*, Philadelphia, Fortress Press, 1985, see Letter to the Trallians, chapter 3 verse 1, p. 140; Letter to the Philadelphians, chapter 8 verse 1, p. 204; Letter to the Magnesians, chapter 6 verse 1, p. 112.

²⁵ LYNCH, “Co-responsibility in the First Five Centuries,” p. 20.

²⁶ *Ibid.*, p. 19.

²⁷ D’ERCOLE, “The Presbyteral Colleges,” p. 14.

1.2.3 Polycarp of Smyrna (ca. 135)

In writing to the Philippians, Polycarp of Smyrna, a recipient of one of Ignatius' letters, began the letter with the salutation, "Polycarp and the presbyters that are with him unto the Church of God which sojourneth at Philippi."²⁸ J. Lynch notes that, although Ignatius addresses Polycarp as bishop, nowhere in his writing does Polycarp call himself bishop or mention bishops.²⁹ Barberena and Lynch agree that this is an indication that in Philippi the pure collegial regime was still in being.³⁰ While the texts of the time may not have mentioned collegiality, they nevertheless had elements of which collegiality consists, which include identity of authority, plurality of members and corporate action.³¹

1.2.4 Apostolic Tradition of Hippolytus of Rome (ca. 215)

The mind of the early Church reveals itself more clearly in the liturgical rites and prayers through which it confers the ministry. For example, the ordination prayer for priests in *The Apostolic Tradition* stresses the corporate character of the presbyterate.³² The prayer asks that the spirit of counsel be given him. He is exhorted to govern with a pure heart. His membership in a college is emphasized by the fact that his fellow presbyters impose hands on him.³³ On the other hand, the ordination prayer of a bishop is

²⁸ J.B. LIGHTFOOT, *The Apostolic Fathers*, 2nd ed., London, Macmillan and Co., 1893, p. 177.

²⁹ LYNCH, "Co-responsibility in the First Five Centuries," p. 20.

³⁰ *Ibid.* See also BARBERENA, "Collegiality," p. 12.

³¹ M. GUERRA, "La colegialidad en la constitución jerárquica," in *El colegio episcopal* (symposium), I, Madrid, 1964, p. 197; English translation in BARBERENA, "Collegiality," p. 12.

³² LYNCH, "Co-responsibility in the First Five Centuries," p. 21.

³³ G. DIX (ed.), *The Apostolic Tradition of St. Hippolytus*, vol. 1, London, Society for Promoting Christian Knowledge, 1937, pp. 13-14. "O God and Father of our Lord Jesus Christ

filled with sacerdotal references, and he is presented as the high priest of the community.³⁴ The presbyters, then, if no longer rulers in the fullest sense, assumed a new role. B.S. Easton comments: “The introduction of the local monarchical episcopate transformed the presbytery from the ruling body into a mere council of advice for the bishop, and so reduced radically the importance of its members.”³⁵

It is significant to mention that during this period, although the bishop occupied a superior position, he was still very much one of the presbyterate. In fact, up until the middle of the third century, there are indications that the Roman bishops were still referred to as presbyters.³⁶

1.2.5 The *Didascalia apostolorum* (ca. 230)

The role of the bishop is further enhanced in the *Didascalia apostolorum* which describes the bishop as “high priest”, a “chief”, a “master”, a “powerful king” and “a type of God”.³⁷ Nevertheless, the presbyters continue to function actively. To this end, *Didascalia apostolorum* says, the presbyters are to be reckoned as a type of apostles and are to be honoured as the apostles, as the counsellors of the bishop and as the crown and

[...] look upon this thy servant and impart to him the spirit of grace and counsel that he may share in the presbyterate and govern thy people in pure heart.”

³⁴ Ibid., pp. 4-12.

³⁵ B.S. EASTON (ed.), *The Apostolic Tradition of Hippolytus*, Hamden, CT, Archon Books, 1962, p. 77.

³⁶ G.H. WILLIAMS, “The Ministry of the Ante-Nicene Church (c. 125-325),” in H.R. NIEBUHR and D.D. WILLIAMS (eds.), *The Ministry in Historical Perspective*, New York, Harper & Row, 1956, p. 39. See also J.E. LYNCH, “Co-responsibility in the First Five Centuries,” p. 23.

³⁷ *The Didascalia apostolorum*, rendered into English by S. ALISTAIR, Turnhout, Belgium, Brepols Publishers, 2009, pp. 150-151 (=ALISTAIR, *The Didascalia apostolorum*).

council of the Church.³⁸ Barberena alludes that in some Churches it was laid down that the presbyters must be twelve in number in memory of the apostles.³⁹ In the *Didascalia*, the celebration of the Eucharistic sacrifice is reserved to the bishop while the presbyters sit beside him.⁴⁰

1.2.6 St. Cyprian of Carthage (ca. 249-258)

The ascendancy of the episcopacy during the patristic period reached its culmination in Cyprian of Carthage, the theologian of episcopacy par excellence among the fathers.⁴¹ Barberena notes:

The collective episcopacy has completely disappeared, and there is a corresponding increase in the privileges of the bishop, that is in the functions that belong to the bishop in person as a successor of the apostles, a functional succession symbolized by the *cathedra*. With this goes a clarification of the local Church as a clearly defined and autonomous entity, linked to the other neighbouring communities by the *communion* which finds its chief expression in synodal meetings and in the participation of all the bishops of a province in the ordination of a new bishop.⁴²

Nevertheless, it was also this era that witnessed a flourishing state of presbyteral collegiality.⁴³ This is obvious in Cyprian's letter to his presbyters and deacons: "From the

³⁸ Ibid., pp. 151-152.

³⁹ BARBERENA, "Collegiality," p. 12.

⁴⁰ ALISTAIR, *The Didascalia apostolorum*, pp. 150-151 and 174-175. See also *The Apostolical Constitutions or Canons of the Apostles in Coptic*, with English translation by H. TATTAM, London, Oriental Translation Fund, 1848, pp. 62 and 122. Here, we find various phrases like, "Let the deacons bring the Eucharist to the bishop, and he shall give thanks over the bread ... and over the cup of wine [...]" (p. 62), or "And when these things have been done, let the deacons bring the gifts to the bishop to the holy altar; and let the presbyters stand on the right hand and on the left of the bishop, in silence, after the manner of disciples standing near their master" (p. 122).

⁴¹ ENO, "Shared Responsibility in the Early Church," p. 132.

⁴² BARBERENA, "Collegiality," p. 12.

⁴³ LYNCH, "Co-responsibility in the First Five Centuries," p. 24.

beginning of my episcopacy, I made up my mind to do nothing of my own private opinion without your advice and without the consent of the people.”⁴⁴ Several times in his letters, Cyprian makes reference to a “common council” in which the weightier business of the community is transacted.⁴⁵

1.3 The Decline of Presbyteral Colleges

We have seen from the above survey how the apostles spread the Christian faith to different communities and appointed presbyters to head the churches which they founded since they were moving from one community to another. We have also seen how the figure of the bishop emerged as distinct from the presbyters and set above the presbyters and how the presbyters continued to play their advisory role as a college. In this section, we shall explore the factors that led to the decline of these presbyteral colleges and what remained of collegiality.

1.3.1 Expansion of the Church

The first Christian communities lived in the cities with the presbyters closely grouped around the bishop; outside the cities lived the pagans.⁴⁶ Following the spread of Christianity to the surrounding countryside, the problem arose as to how these outlying

⁴⁴ G.W. CLARKE, *Ancient Christian Writers: The Letters of St. Cyprian*, vol. 1, New York, Newman Press, 1984, letter 14, no. 4, p. 89. “A primordio episcopatus mei statuerim nihil sine consilio vestro et sine consensus plebis mea privatim sententia gerere.”

⁴⁵ We find, for example in letter 55, no. 7, phrases like, “common decision of our council,” “concord of the college and the advantage of binding together the brethren,” and “decisions which pleased us together in our council by common agreement.” See R.B. DONNA, *The Fathers of the Church: Saint Cyprian Letters* (1-81), Washington, DC, Catholic University of America Press, 1964, p. 137.

⁴⁶ BARBERENA, “Collegiality,” p. 13.

communities could be linked in the unity of the diocesan Church.⁴⁷ Hence, as the Church spread out into the country districts, far away from the seat of the bishop, presbyters were appointed as leaders of these new communities.⁴⁸ The consequence of this was the isolation of the presbyters from each other.

1.3.2 The Decline of Collegiality

As Christianity spread over a large territory, bishops sent the presbyters to proclaim the word and celebrate the Eucharist and the sacraments in communities distant from the see. Thus, it became increasingly difficult to bring them together as a body.⁴⁹ The net effect was to concentrate administrative and disciplinary affairs in the hands of the bishop.⁵⁰

By the end of the fourth century there were attempts to restore the *presbyterium* to its former status. St. Jerome, for example, made several remarks to narrow the distance between a presbyter and a bishop. He asked, “[f]or what function, excepting ordination, belongs to a bishop that does not also belong to a presbyter?”⁵¹ He also said that “bishops

⁴⁷ Ibid.

⁴⁸ K. BAUS, *Handbook of Church History: From the Apostolic Community to Constantine*, vol. 1, translated from the third revised ed. of H. JEDIN and J. DOLAN (eds.), *Handbuch der Kirchengeschichte*, Freiburg, Herder, 1965, p. 349.

⁴⁹ BARBERENA, “Collegiality,” p. 13.

⁵⁰ LYNCH, “Co-responsibility in the First Five Centuries,” p. 30.

⁵¹ H. WACE and P. SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church*, vol. 6: *St. Jerome: Letters and Select Works*, Oxford, James Parker and Company, 1890-1900, *Epistle* 146, no.1, p. 289 (=WACE, *St. Jerome Letters*).

should know themselves to be priests not lords,” and should “render to the clergy the honor which is their due.”⁵²

At the end of the fifth century these views had influenced the Canons of Hippolytus (which were derived from the *Traditio apostolica* of St. Hippolytus of Rome) in establishing the equality of ordination of the bishop and the presbyter. Accordingly, “all is done with him in the same manner as with the bishop except that he does not occupy the throne.”⁵³

1.3.3 Remnants of Collegiality

Although presbyteral collegiality experienced a decline, it is part of the organic structure of the people of God and did not die out completely.⁵⁴ According to Barberena, “[t]he presbyters survived in the group of priests who remained in the city with the bishop; after various vicissitudes this group became the origin of the cathedral chapter and of the presbyteral cardinals of Rome.”⁵⁵ Certain practices remained as relics of this presbyteral collegiality, among them concelebration at the Mass of ordination as well as the laying on of the presbyters’ hands in the ordination of a priest.⁵⁶

⁵² Ibid., *Epistle 52*, no.7, p. 93.

⁵³ *Constitutiones apostolicae*, ch. 16, as cited by BARBERENA, “Collegiality,” p. 13: “*omnia cum eo similiter agatur ac cum episcopo nisi quod cathedrae non insideat.*” This passage has, however, been interpreted differently. For more insight into this debate, see H. ATTRIDGE (ed.), *The Apostolic Tradition*, Minneapolis, Fortress Press, 2002, p. 55.

⁵⁴ D’ERCOLE, “The Presbyteral Colleges,” p. 16.

⁵⁵ BARBERENA, “Collegiality,” p. 13. See also P. TORQUEBIAU, “Chapitres de Chanoines,” in *Dictionnaire de droit canonique*, vol. 3, cols. 537ff; and J. PASCHER, “The Relation between Bishop and Priests,” in *Concilium*, 2 (1965), pp. 14-17.

⁵⁶ BARBERENA, “Collegiality,” p. 13.

1.4 Emergence of the Cathedral Chapter as the Bishop's Senate

A survey of the early church writings reveals that in some of the early Churches a collective leadership was in force; in others, individuals emerged who eventually became what we know as bishops.⁵⁷ Nevertheless, during this early period of the Church all priests belonged to the bishop's *familia* and served the cathedral church.⁵⁸ J. Gilchrist emphasizes that they lived a common life with the bishop.⁵⁹ However, by the fourth century, rural and cathedral clergy were being distinguished.⁶⁰ J. Purcell describes the situation as follows.

By the fifth century there was a great number of outlying parishes, not all of which were established by the bishop. A large community was often governed by an arch-priest with the assistance of other clerics and together they formed a kind of small-scale presbyterium analogous to, but separate from, the presbyterium that remained in the cathedral church around the bishop [...]. This meant that the bishop lost touch with his presbyters and that the presbyters were no longer consulted in the administration of the diocese. Those who were consulted were the remnant who continued to live at the cathedral: they alone were the members of the bishop's council, or senate, and became known as canons.⁶¹

Similarly, J.H. Provost comments:

By the high Middle Ages this had solidified into a new pattern. Parishes were now the centers for direct pastoral care, a function provided almost exclusively by priests. Bishops were responsible for overall supervision and relied only on some priests—especially their cathedral chapter—for advice instead of on the entire *presbyterium*.⁶²

⁵⁷ J.H. PROVOST, "Diocesan Administration: Reflections on Recent Developments," in *The Jurist*, 41 (1981), p. 81 (=PROVOST, "Diocesan Administration").

⁵⁸ J. GILCHRIST, "Cathedral Chapter," in *New Catholic Encyclopedia*, vol. III, New York, McGraw-Hill Book Company, 1967, p. 249 (=GILCHRIST, "Cathedral Chapter").

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ J.W. PURCELL, "The Institute of the Senate of Priests," in *The Jurist*, 38 (1978), pp. 136-137 (=PURCELL, "The Institute of the Senate of Priests").

⁶² PROVOST, "Diocesan Administration," p. 82.

It was at this time that the cathedral chapter emerged as the bishop's senate, fulfilling the advisory role that the entire *presbyterium* or the college of presbyters fulfilled earlier.

1.4.1 Cathedral Chapter in the Decretal Law

Following the emergence of the cathedral chapter, common life gradually disappeared as the cathedral chapter acquired an existence separate from the bishop.⁶³ The result of this, according to J. Gilchrist, is that episcopal and chapter properties were often separately administered by the ninth and tenth centuries.⁶⁴ Various attempts to restore common life were met with resistance.⁶⁵

The cathedral chapter over a period of time achieved certain legal rights and reached the peak of its power between the eleventh and fourteenth centuries.⁶⁶ During this period the cathedral chapter developed into a corporate body with rights and status in Canon Law; this made the chapter very powerful. This situation led to conflict of power between the chapter and the bishop.⁶⁷ As a corporate body with rights and status in canon law, the cathedral chapter in the decretal era possessed the power to elect a bishop, govern a diocese *sede vacante*, impose ecclesiastical sanctions, and play some role in the

⁶³ GILCHRIST, "Cathedral Chapter," p. 249.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ PURCELL, "The Institute of the Senate of Priests," p. 137.

⁶⁷ GILCHRIST, "Cathedral Chapter," p. 250.

administration of a diocese as the bishop's senate or council.⁶⁸ Commenting on the chapter's right to elect a bishop, J. Purcell says:

The Church had been plagued by an unhealthy lay influence in the election of bishops. The popes, in order to dilute such influence, continually urged the cathedral chapter to play a part in such elections. By the time of the Fourth Lateran Council (1215), the chapter had virtually displaced any other influence. Such a trend was protested against, especially by the monastic element, but the Fourth Lateran Council was able to declare that the chapter had the sole right to elect the bishop.⁶⁹

On the power to govern the diocese *sede vacante*, J. Purcell alludes that until the Council of Trent, the chapter was entrusted with the right of election and the power to govern a diocese *sede vacante*.⁷⁰

In some cases, it appears that the cathedral chapter also possessed the power to impose sanctions, including the power to excommunicate a recalcitrant communicant.⁷¹ Still, the greatest power the chapter possessed was its influence as the bishop's senate or council. This was the area in which the chapter played a continuous part in the administration of a diocese. This power was obvious in a decree of the Second Council of Lyons held in 1274 which forbade Prelates to surrender the churches or their rights to laymen without the consent of their chapter and the permission of the Apostolic See and which also made null all contracts made without such consent and permission.⁷²

⁶⁸ PURCELL, "The Institute of the Senate of Priests," pp. 137-138.

⁶⁹ Ibid.

⁷⁰ Ibid., p. 138.

⁷¹ J. MIGNE, *Patrologiae cursus completus, Series latina*, vol. 221, Paris, 1844-1964, no. 162, p. 130.

⁷² H.J. SCHROEDER, *Disciplinary Decrees of the General Councils: Text, Translation and Commentary*, London, B. Herder Book Co., 1937, p. 349, c. 22. B. TIERNEY, elaborates on this power, "It was laid down in the *Decretum* that a bishop needed the co-operation of his chapter in conferring benefices and privileges, in alienating church property, and also in judging cases. The

The conflict which arose during this period between the bishop and the chapter was centered on the wide-ranging power possessed by the chapter and on what control the bishop should have over the chapter.⁷³ J. Gilchrist opines that this situation was particularly complicated by the fact that from the twelfth century the bishop owed his election to the chapter.⁷⁴ This conflict created an atmosphere whereby the cathedral chapter was perceived more as an opposing force than an asset to the bishop.⁷⁵ This situation led to the various attempts to thwart this power.⁷⁶ Consequently, although in theory the prerogative of electing the bishop belonged to the cathedral chapter until the Code of 1917, there were practical exceptions and gradual shifts which eventually influenced the 1917 Code. For example, in 1305, Clement V reserved to himself appointments to vacant bishoprics in the Diocese of Rome; this system of appointment was eventually extended throughout the Church by his successors.⁷⁷

Further modification of the power of the cathedral chapter was made in the Council of Trent, requiring the chapter to appoint a vicar capitular within eight days of

provisions were confirmed and extended in two letters of Alexander III which decreed that counsel of the canons was generally necessary in the conduct of the affairs of a church and that privileges conferred without their approval were to be held invalid.” See B. TIERNEY, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism*, New York, Brill, 1998, p. 100. J. PURCELL, also elaborates on this. For details, see PURCELL, “The Institute of the Senate of Priests,” p. 138.

⁷³ GILCHRIST, “Cathedral Chapter,” p. 250.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ PURCELL, “The Institute of the Senate of Priests,” p. 139.

⁷⁷ GILCHRIST, “Cathedral Chapter,” p. 250.

the bishop's death to govern the diocese *sede vacante*.⁷⁸ Trent also made the cathedral chapter subject to episcopal visitation and correction.⁷⁹

1.4.2 Cathedral Chapter in the *CIC* 1917

The 1917 Code, for its part, further restricted and clearly defined the role of the cathedral chapter. At the same time, it recognized the alternative system of diocesan consultors (*CIC/17* cc. 423-428), which had been set up in the United States in 1835 at Mobile, Alabama.⁸⁰ Canon 391, §1 of the 1917 Code stated:

A chapter of canons, whether cathedral or collegial, that is, gathered together, is a college of clerics so instituted that it does the more solemn acts of cult to God in a church and, if it concerns a cathedral chapter, serves, as it were, as a senate for the bishop according to the norm of the sacred canons, and, the see being vacant, supplies his place in the governance of the diocese.⁸¹

⁷⁸ *The Canons and Decrees of the Council of Trent*, rendered into English by H.J. SCHROEDER, Rockford, Illinois, Tan Books and Publishers Inc., 1941, p. 206. "When a see becomes vacant, the chapter shall, in those places where the duty of receiving the revenues devolves upon it, appoint one or more trustworthy and diligent stewards who shall take care of the ecclesiastical properties and revenues, of which they shall have to give an account to him whom it will concern. It shall also be strictly to appoint within eight days after the death of the bishop an official or vicar, or to confirm the incumbent, who shall be at least a doctor or Licentiate in canon Law, or otherwise as competent a person as is available."

⁷⁹ *Ibid.*, p. 49. "Chapters of cathedral and of other major churches and the members thereof shall not by any exemptions, customs, judicial verdicts, oaths, agreements, which bind only the originators thereof and not also their successors, shield themselves so that they cannot even with Apostolic authority be visited, corrected and amended in accordance with the canonical statutes as often as shall be necessary by their own bishops and other major prelates, by themselves alone or with those whom they shall deem fit to accompany them."

⁸⁰ GILCHRIST, "Cathedral Chapter," p. 250.

⁸¹ *CIC/17*; English translation by E.N. PETERS, *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001. "Capitulum canonicorum sive cathedrale sive collegiale seu collegiatum est clericorum collegium ideo institutum ut sollemnio rem cultum Deo in ecclesia exhibeat et, si agatur de Capitulo cathedrali, ut Episcopum, ad normam sacrorum canonum, tamquam eiusdem senatus et consilium, adiuvet, ac, sede vacante, suppleat in dioecesis regimine."

Commenting on this restriction and definition of the role of the cathedral chapter by the 1917 Code, J. Purcell says: “The bishop’s duty to consult the chapter, however, is restricted to those cases named in the law itself, and outside those specific areas the bishop is not required to consult. In other words, there is no general, required consultative role given to the chapter.”⁸²

The emphasis of the 1917 Code, therefore, was clearly and exclusively hierarchical, and this was expressed in canon 335 which gave the diocesan bishop the right and duty to rule his diocese in both spiritual and temporal matters with legislative, judicial and coercive power. The result of this was a de-emphasis in the significance of consultation. “Admittedly, bishops consulted, but the consultation had no significant status or theological basis. The Church was hierarchical, and the important virtue was obedience.”⁸³

1.5 Emergence of the Diocesan Consultors

The emergence of the diocesan consultors could be attributed to many factors, including the complexity of the cathedral chapter which presupposes a rather advanced state of a diocese. Closely linked with this factor was the further spread of the faith to the new world of the two Americas and Australia.⁸⁴ These territories, which had been under Propaganda Fide, were not as organized as those of Europe or as the dioceses of today

⁸² PURCELL, “The Institute of the Senate of Priests,” p. 139.

⁸³ Ibid., p. 140.

⁸⁴ P.J. KLELOTKA, *Diocesan Consultors*, Canon Law Studies, no. 8, Washington, DC, Catholic University of America, 1920, p. 12 (=KLELOTKA, *Diocesan Consultors*).

and, as such, did not have the rather complex structures necessary for a cathedral chapter.⁸⁵ Commenting on this point, P.J. Klelotka states:

All over the United States the Church was still in its infancy, the Catholics few and far between, missions, not organized parishes, were the rule. This missionary state of affairs precluded the early establishment of anything like the cathedral chapters and out of these circumstances arose our institution of Diocesan Consultors.⁸⁶

1.5.1 Diocesan Consultors before the 1917 Code

The idea and history of diocesan consultors can be traced to the diocesan synod of Mobile,⁸⁷ the provincial councils of Baltimore⁸⁸ and the three great plenary councils.⁸⁹ The idea first appeared in the first synod of the diocese of Mobile held in 1835.⁹⁰ In that synod, Bishop Michael Portier promulgated a decree establishing a council consisting of two priests appointed by the bishop and the vicar general to meet once a month for the discussion of diocesan affairs.⁹¹

⁸⁵ P. GUILDAY, *A History of the Councils of Baltimore*, New York, Arno Press and the New York Times, 1969, p. 78. See also W. MILLER, *The Juridical Configuration of the Diocesan Consultors with Particular Reference to the Church of the United States of America: An Historical-Juridical Study*, excerpts of JCD dissertation, Rome, Pontificia Universitas Lateranensis, 1975, p. 32 (=MILLER, *The Juridical Configuration of the Diocesan Consultors*).

⁸⁶ KLELOTKA, *Diocesan Consultors*, p. 17.

⁸⁷ J. SHEA, *History of the Catholic Church in the United States*, vol. 3, New York, The Mershon Company Press, 1890, 700 (=SHEA, *History of the Catholic Church in the United States*).

⁸⁸ T. MAYNARD, *The Story of American Catholicism*, New York, The Macmillan Company, 1941, pp. 240-241.

⁸⁹ J. BARRETT, *A Comparative Study of the Councils of Baltimore and the Code of Canon Law*, Canon Law Studies, no. 83, Washington, DC, Catholic University of America, 1932, pp. 72-73 (=BARRETT, *A Comparative Study of the Councils of Baltimore*).

⁹⁰ KLELOTKA, *Diocesan Consultors*, pp. 17-18.

⁹¹ *Ibid.*, p. 18. This historic decree (no. XI) reads, “Statutum est duos sacerdotes ab Episcopo designatos una cum Vicario Generali constituere consilium episcopale et convenire

This idea seemed satisfactory also to the Fathers of the First Plenary Council of Baltimore. To this end, in one of the closing sessions of that great council, the decree *Hortandos Episcopos*⁹² was adopted in which the bishops of the country were urged to establish in their dioceses, in so far as conditions would permit, several qualified priests as their advisers in administrative matters.⁹³ The reference of the decree to the custom of a monthly meeting is an indication of the influence that the Mobile decree had on it.⁹⁴

Eventually, when in 1866 the Second Plenary Council of Baltimore was convoked, most of the larger dioceses and almost all the archdioceses had their bishop's councils, consisting of an average of ten to twelve members.⁹⁵ The Second Plenary Council gave additional impetus to the bishop's council. Recognizing that bishops were overburdened with work, a decree of this council advised bishops to share some of their responsibilities with the order of priesthood so that by the united consent and vote of the two orders of priesthood and episcopacy, all be perfected for the glory of God.⁹⁶

Nevertheless, owing perhaps to the fact that the Second Plenary Council merely advised the establishment of the diocesan consultors, its spirit evidently had not yet been

qualibet secunda feria quinta cujuslibet mensis, praesente vel absente Episcopo ad discutiendam res quae ad bonum diocesis contuere possunt et investiri facultatibus in pari casu a jure concessis.” KLELOTKA cites *Synodus Mobiliensis Prima*, Notre Dame University Press, 2nd ed., 1890.

⁹² Ibid., p. 19. See E. DOMO (ed.), *Acta et Decreta Sacrorum Conciliorum recentiorum (Collectio Lacensis)*, Freiburg, Herder, vol. 3, 1870-1890, no. 6, p. 146.

⁹³ Ibid.

⁹⁴ MILLER, *The Juridical Configuration of the Diocesan Consultors*, p. 35.

⁹⁵ KLELOTKA, *Diocesan Consultors*, p. 19.

⁹⁶ *Concilii Plenarii Baltimorensis II Acta et Decreta*, cap. V.

translated into practice.⁹⁷ This situation was even made worse by the fact that at this period there was no definite legislation on the rights and duties of these diocesan consultors.⁹⁸ The only legislation that existed before this period was that of the Eighth Provincial Council of Baltimore held in 1855 at which an attempt was made to define their duties with precision focusing only on their right to present candidates for succession to the vacant see.⁹⁹

In 1883, as part of the preparation for the Third Plenary Council of Baltimore, a commission of archbishops from the United States held conferences in Rome with the Cardinals of the Congregation Propaganda Fide to draw up a schema for the agenda of the plenary council.¹⁰⁰ Desirous of seeing the general law of the Church introduced even in the United States, the congregation at the conference proposed the establishment of cathedral chapters in the United States in order to eliminate the defects in the institution of the diocesan consultors.¹⁰¹ Nevertheless, the archbishops from the United States objected to the proposal, considering the time as yet inopportune.¹⁰² While the exact motive of this objection is not known, P.J. Klelotka says perhaps the Fathers thought there was too great a lack of priests or of ecclesiastical funds to permit the establishment

⁹⁷ S.B. SMITH, *Elements of Ecclesiastical Law*, vol. 1, New York, Benzinger Brothers, 1887, p. 494 (=SMITH, *Elements of Ecclesiastical Law*).

⁹⁸ Ibid.

⁹⁹ KLELOTKA, *Diocesan Consultors*, p. 20.

¹⁰⁰ SMITH, *Elements of Ecclesiastical Law*, p. 494.

¹⁰¹ *Acta et Decreta Concilii Plenarii Baltimorensis III*, Baltimore, John Murphy, 1886, no. 17 (=Council of Baltimore III).

¹⁰² SMITH, *Elements of Ecclesiastical Law*, p. 494, footnote 5.

of regular chapters.¹⁰³ In the end, the congregation requested that, in the decree of the plenary council on diocesan consultors, the establishment of a cathedral chapter not be excluded.¹⁰⁴

The Fathers of the Third Plenary Council took cognizance of this request of the congregation. Hence, in an introductory decree, the Fathers acknowledged the wisdom behind the institution of the cathedral chapter to act as aids and counselors to the burdened bishops but insisted that the time was not yet ripe for it in the United States and, in its place, they decreed the institution of diocesan consultors.¹⁰⁵

We shall now proceed to discuss the resolutions and decrees of the Third Plenary Council of Baltimore on the diocesan consultors. These treat the establishment, membership, functions, and constitution of diocesan consultors.

a) *The establishment of diocesan consultors.* While the Second Plenary Council merely exhorted the bishops to establish the diocesan consultors, the Third Plenary Council made the institution of the diocesan consultors obligatory.¹⁰⁶ The decree made it clear that consultors served as a temporary replacement of the cathedral chapter to help the bishop in the governance of the diocese.¹⁰⁷

¹⁰³ KLELOTKA, *Diocesan Consultors*, p. 21.

¹⁰⁴ Ibid.

¹⁰⁵ *Council of Baltimore III*, no. 17. See also SMITH, *Elements of Ecclesiastical Law*, footnote 5, p. 494.

¹⁰⁶ *Council of Baltimore III*, nn. 17-22.

¹⁰⁷ “Quamdiu, in presenti rerum statu, capitula cathedralia erigi nequeunt, instituantur Consultores Dioecesani [...]” Ibid., no. 18.

b) *The membership of the diocesan consultors.* Number 18 of the decree focused on the membership and made it clear that one had to be a priest to become a member of the diocesan consultors. Additionally, the priests chosen had to possess outstanding qualities: piety, moral integrity, attention to the salvation of souls, knowledge, wisdom, understanding of the world and people, and respect for the sacred canons and diocesan decrees. The number of members was to be six or at least four. Nevertheless, in the event that this number was unobtainable, it allowed a membership of only two.¹⁰⁸ The decree said that the diocesan consultors were to be appointed by the bishop. Nevertheless, only half of these appointed members were to be taken directly from the presbyterium by the bishop himself. The other half were appointed by the diocesan bishop from the list of priests proposed by the clergy entrusted with sacred ministry in the diocese.¹⁰⁹

c) *The functions of the diocesan consultors.* Number 20 of the decree listed the following functions of the diocesan consultors.

- 1) The bishop will request the consultors' counsel to convoke and announce the diocesan synod.
- 2) If it happens that any mission or parish has to be dismembered, the consultors' counsel will be requested, and that of the rector of the mission.
- 3) The consultors' counsel will also be requested when it is a question of entrusting a mission or parish to some religious community; in such a case, the approval of the Holy See will also be necessary.
- 4) The consultors' counsel will also be requested when it is a matter of instituting deputies for diocesan seminaries.

¹⁰⁸ “[...]sacerdotes pietate morumque integritate, sollicitudine pro animarum salute, doctrina, prudentia, rerum hominumque experientia, necnon sacrorum canonum et dioecesanorum statutorum observantia insignes. Ejusmodi consultores numero debent esse sex vel saltem quatuor; ubi vero nullo modo tot haberi poterunt, sint saltem duo.” Ibid., no. 18.

¹⁰⁹ “Eligendi erunt consultores ab Episcopo, ea tamen ratione, ut dimidiam eorum partem eligat ex sese, alteram vero partem non nisi post propositionem cleri. Propositio autem ex parte cleri fiet hoc modo: singuli sacerdotes qui in dioecesi sacro ministerio funguntur, Episcopo exhibebunt nomina eorum scripta, quos pro munere consultorum idoneos putaverint, quin taxative aliquos designent. Pro unoquoque seligendo consultore tria nomina proponi debent; ex his vero Episcopus eos eliget, quos ipse in Domino aptiores judicaverit.” Ibid., no. 19.

- 5) The consultors' counsel will also be necessary for the appointment of a new consultor and examiner acting in a synod.
- 6) When it is a question of transferring goods and funds of the diocese or of the missions, and the amount involved is above five thousand dollars, the consultors' counsel is needed and, when it is obtained, the approval of the Holy See is also necessary.
- 7) Also, after the consultors' counsel has been obtained, it will be necessary to refer to the Holy See when it is a question of imposing for the bishop a new tax that goes beyond the limits set by canon law.¹¹⁰

In all the above-mentioned seven cases, the diocesan bishop was only required to obtain the counsel of the diocesan consultors and no one else, except when the permission of the Holy See was also necessary.¹¹¹ In the case of the diocesan administrator responsible for the governance of a vacant diocese, number 22 of the decree stated: "The diocesan administrator, responsible for the governance of a vacant diocese, is required to obtain the advice of the diocesan consultors according to the above-mentioned regulations defining its functions."¹¹²

¹¹⁰ "Ad Consultorum attributiones quod pertinet, Patres de his convenerunt: (1) Consilium consultorum exquiret Episcopus pro synodo dioecessana indicenda et publicanda. (2) Si contingat ut missio seu parochia aliqua sit dismembranda, exquirendum erit consilium consultorum, necnon et rectoris dismembrandae missionis. (3) Consultorum item requiretur consilium, quando id agatur, ut missio seu parochia tradatur alicui familiae religiosae; quo in casu necessaria erit etiam venia S. Sedis. (4) Consultorum consilium exquiretur in constituendis deputatis pro seminariis dioecesanis. (5) Item consultorum consilium necessarium erit in eligendo novo consultore et in eligendis examineribus qui sint loco synodali. (6) Quando agitur de bonis et fundis dioecesis vel missionum permutandis aliisque agendis, quae speciem alienationis prae se ferunt, ubi summa pecuniae non excedat valorem quinque millium scutorum, Episcopi liberi erunt; ubi vero negotium eam summam superat, tunc requiritur consilium consultorum, eoque praehabito, necessaria est S. Sedis permissio. (7) Item, praehabito consilio consultorum, necessarius erit recursus ad S. Sedem in singulis casibus, in quibus agatur de imponenda nova taxa pro Episcopo quae excedat limites a canonibus constitutos." Ibid., no. 20.

¹¹¹ H.R. VILLAMIL, *Legislation on the College of Consultors: Evolution and Commentary on some Aspects*, JCD dissertation, Rome, Pontificium Athenaeum Sanctae Crucis, 1996, p. 11 (=VILLAMIL, *Legislation on the College of Consultors*).

¹¹² "Sede episcopali vacante, administrator dioecesis consilium consultorum adhibere tenetur, juxta normam supra statutam quoad consultorum attributiones." Ibid., no. 22.

d) *The constitution of the diocesan consultors*. Number 21 of the decree focused on the constitution of the diocesan consultors. Accordingly, the consultors were to be appointed for three years. Having being appointed, none of them could be dismissed against their will except for a legitimate and just reason and only after consulting all the other consultors. Such just reasons included: (1) old age, ill health or a motive of the same sort by which he becomes incapable of fulfilling the functions of a consultor; (2) committing a serious offense, by which he makes himself unworthy of such an honorable function; and (3) a personal fault which casts a slur on his reputation.¹¹³ When replacing a consultor who was leaving, either because he was dismissed or because he resigned, the bishop was required to appoint a substitute with the advice of the remaining consultors. In the event that the three-year period came to an end at a time that the episcopal see was vacant, the consultors would retain their functions pending the arrival of a new bishop, who must appoint new consultors within six months following his consecration.¹¹⁴ The diocesan consultors always acted in a collegial manner and were required to take a secret vote whenever it seemed prudent. The bishop was requested to convoke the college four

¹¹³ “Consultores eligentur ad triennium. Postquam electi fuerint nullus eorum invitus removeri potest nisi ex legitima et justa causa, et de consilio ceterorum consultorum. Justa autem aderit causa, si ob senectutem, infirmitatem et similia ad consultoris partes obeundas inhabilis effectus fuerit, aut graviter delinquendo munere ejusmodi honorifico indignum sese reddiderit, vel propria culpa notabile passus sit famae detrimentum.” Ibid., no. 21.

¹¹⁴ “In locum consultoris recedentis, sive remotionis, sive renuntiationis via, Episcopus alium sufficiet de consilio tamen reliquorum consultorum. Casu quo triennium expirare contigerit tempore vacationis sedis episcopalis, consultores in officio manebunt usque ad accessum novi Episcopi, qui intra sex menses a consecratione sua ad novam consultorum electionem instituendam tenetur.” Ibid.

times a year at fixed dates or, if this was impossible, at least twice a year, and whenever there were affairs to be discussed.¹¹⁵

Even after the promulgation of the acts and decrees of the Third Plenary Council of Baltimore, the institute of the diocesan consultors was not to be found in the common law of the Church until the 1917 Code entered into force. This is due to the fact that the cathedral chapter was still the recognized senate of the bishop in the dioceses regulated by the common law of the Church.¹¹⁶

The Church in some other countries also had difficulty establishing cathedral chapters, and the legislation of the Third Plenary Council of Baltimore became an exemplar for some of these countries in making their own particular laws on diocesan consultors.¹¹⁷ Hence, we find similar legislation in the acts and decrees of the Plenary Council of Sydney, Australia;¹¹⁸ the acts and decrees of the Plenary Council of Latin America;¹¹⁹ the acts and decrees of the First Provincial Council of Manila;¹²⁰ and in the

¹¹⁵ “Consilium consultorum praestabitur collegialiter, et quoties eis ita videbitur, secretis suffragiis, ideoque Episcopus eos quater in anno statutis temporibus convocabit, vel ubi id fieri non potest, saltem bis in anno; alias vero quoties ad pertractanda negotia erit necessarium.” Ibid.

¹¹⁶ VILLAMIL, *Legislation on the College of Consultors*, p. 12.

¹¹⁷ H.A. AYRINHAC, *Constitution of the Church in the New Code of Canon Law*, New York, Longmans, Green and Co., 1930, p. 258 (=AYRINHAC, *Constitution of the Church*).

¹¹⁸ *Acta et Decreta Concilii Plenarii Australasiae, habiti apud Sydney, A.D. 1885, a Sancta Sede recognita*, Sydney, F. Cunningham & Co., 1887, canons 29-34.

¹¹⁹ *Acta et Decreta Concilii Plenarii Americae Latinae, in Urbe celebrate Anno Domini MDCCCXCIX*, Rome, Typis Vaticanis, 1902, canons 242-246.

¹²⁰ *Acta et Decreta Concilii Provincialis Manilani I, in Urbe Manila celebrati Anno Domini MDCCCVII*, Rome, Typis Polyglottis Vaticanis, 1910, canons 280-285.

acts and decrees of the First Plenary Council of Quebec.¹²¹

Although the decrees of Baltimore III and Latin America were very similar and at the same time useful, in the future legislation on diocesan consultors, there were however some important specific provisions which were added to the legislation of Latin America which became advantageous to the 1917 Code. Such included the provision of canon 243 of the Plenary Council of Latin America which obliged the diocesan consultors to live in the episcopal city or at least within its vicinity.¹²² This provision was retained in canon 425, §1 of the 1917 Code. The same canon 243 also required the consultors to make an oath to maintain secrecy and fulfill their duty faithfully and without partiality.¹²³ This provision was also retained in canon 425, §2 of the 1917 Code. Another significant provision is found in canon 246 which stated that the vote of the consultors was always consultative and the final decision was reserved to the diocesan bishop.¹²⁴

1.5.2 Diocesan Consultors in the 1917 Code

In the 1917 Code, the institute of diocesan consultors was given a universal juridical status. To this end, it was incorporated into the Code as a requirement for those in mission areas under Propaganda Fide, and it served as an alternative advisory body of the bishop in other dioceses where a cathedral chapter could not be established. The

¹²¹ *Acta et Decreta Concilii Plenarii Quebecensis Primi, Anno Domini MCMIX*, Quebec, Typis L'Action Sociale Limitée, 1912, canons 117-121.

¹²² “Quatuor [...] iique in civitate episcopali vel in locis vicinioribus residentiam habeant.” See *Acta et Decreta Latinae Americae*, canon 243.

¹²³ “[...] Antequam vero ad consilia vocentur iuramentum emittant de secreto servando et de munere fideliter exsequendo absque ulla acceptione personarum.” Ibid.

¹²⁴ “Canon 246. Votum Consultorum, „est semper consultivum, et sententia definitiva Episcopo est reservata[...].”

office of diocesan consultor was well defined in the following canons of the 1917 Code.¹²⁵

Canon 423. In any diocese in which there cannot yet be established or restored a cathedral chapter of canons, there shall be instituted by the bishop, with due regard for the special prescriptions of the Apostolic See, diocesan consultors, [consisting of] priests commended for their piety, morals, learning, and prudence.¹²⁶

Canon 424. The bishop appoints the consultors with due regard for the prescription of Canon 426.¹²⁷

Canon 425, §1. The diocesan consultors shall be at least six in number; but in a diocese where there are not many priests, at least four; and they shall live in the cathedral city or in a nearby place.

§ 2. Before they take up their duties, they are to take an oath faithfully to fulfill their duties without regard to persons.¹²⁸

Canon 426, §1. The office of the consultors is for three years.

§2. At the end of the three years, the bishop replaces them with others or confirms the same ones for another three years, which shall be done every three years.

§3. But if a consultor for any reason fails to finish three years, the bishop shall replace him with another for the remaining period of the three years, with the advice of the other consultors.

§4. But if it happens that the three years expire during the vacancy of the Episcopal see, the consultors remain in office until the arrival of the new bishop, who within six months of beginning his possession [of the diocese] must see [to the matter] according to the norm of this canon.

§5. But if during the vacancy in the see, a consultor dies or resigns, the Vicar Capitulary, with the consent of the other consultors, appoints another, who,

¹²⁵ *CIC/17*, cc. 423-428.

¹²⁶ *Ibid.*, c. 423. “In quibus dioecesibus nondum constitui potuit restitutive cathedrale canonicorum Capitulum, instituantur ab Episcopo, salvis peculiaribus Apostolicae Sedis praescriptis, consultores dioecesani, hoc est sacerdotes pietate, moribus, doctrina ac prudentia commendati.”

¹²⁷ *Ibid.*, c. 424. “Consultores nominat Episcopus, firmo praescripto can. 426.”

¹²⁸ *Ibid.*, c. 425, §1. “Consultores dioecesani numero sint saltem sex; in dioecesibus ubi pauci sint sacerdotes, saltem quatuor; iidemque omnes in civitate episcopali vel in locis vicinioribus commorentur.”

§2. “Antequam munus huiusmodi suscipiant, iusiurandum interponant de officio fideliter exsequendo sine ulla acceptione personarum.”

nevertheless, in order to perform his function, requires confirmation by the new bishop when the see is filled.¹²⁹

Canon 428. For the duration of their appointment, consultors cannot be removed except for a just cause and with the advice of the other consultors.¹³⁰

The 1917 Code expanded the competence of the diocesan consultors by conferring all the functions of the cathedral chapter on them. Accordingly, canon 427 stated:

The committee of diocesan consultors, like a senate of the bishop, takes the place of the cathedral chapter; therefore, all those canons on the governance of the diocese, whether the seat is occupied, impeded, or vacant, in reference to the cathedral chapter are to be understood as applying also to the committee of diocesan consultors.¹³¹

The duties of the cathedral chapter were thus ascribed to the diocesan consultors. As such, the diocesan consultors, besides giving consent or counsel, were able to exercise an

¹²⁹ Ibid., c. 426, §1. "Officium consultorum est ad triennium."

§2. "Exacto triennio, Episcopus vel alios in eorum locum substituat, vel eosdem ad aliud triennium confirmet, quod idem servetur singulis trienniis."

§3. "Deficiente, quavis de causa, aliquo consultore intra triennium, Episcopus alium de consilio ceterorum consultorum substituat, isque in officio maneat usque ad expletum idem triennium."

§4. "Cum vero triennium excidisse contigerit vacante sede episcopali, consultores in officio maneannt usque ad accessum novi Episcopi, qui intra sex menses ab inita possessione providere debet ad normam huius canonis."

§5. "Si, sede vacante, aliquis consultor moriatur vel renuntiet, Vicarius capitularis, de consensu aliorum consultorum, alium nominet, qui tamen, ut munere, sede plena, fungatur, indiget novi Episcopi confirmatione."

¹³⁰ Ibid., c. 428. "Durante munere, consultores ne removeantur, nisi ob iustam causam ac de consilio ceterorum consultorum."

¹³¹ Ibid., c. 427. "Coetus consultorum dioecesanorum vices Capituli cathedralis, qua Episcopi senatus, supplet; quare quae canones ad gubernationem dioecesis, sive sede plena sive ea impedita aut vacante, capitulo cathedrali tribuunt, ea de coetu quoque consultorum dioecesanorum intelligenda sunt."

independent governing role as a college when the see was impeded or vacant.¹³² This provision was significant since the previous legislation which required the consent and counsel of the diocesan consultors did not provide for who was to govern the vacant see and elect the diocesan administrator.

While the Councils of Baltimore had never decreed that the consultors had this power, it had been customary for chapters to govern vacant sees; the 1917 Code extended the role to the consultors, by granting them this ordinary power on a temporary basis, as mentioned in canon 427.¹³³

Since the 1917 Code made the competence of the diocesan consultors very broad by conferring all the functions of the cathedral chapter on the diocesan consultors, we shall not attempt to discuss all the canons of the 1917 Code that concern the competence of the diocesan consultors in this work, but shall restrict our scope to those that relate to the collaborative role of the presbyteral council in the present Code, which is the focus of this thesis.

One of such canons that gave competence to the diocesan consultors was canon 1303, §4: “The bishop should fix the amount of the fee for the whole diocese, if possible in a diocesan synod, or outside the synod with the advice of the Chapter.”¹³⁴ This canon required the bishop to consult the diocesan consultors before fixing, outside the diocesan synod, the offering for visiting priests who assist in the celebration of Mass in the diocese.¹³⁵

¹³² J. HANNON, *The College of Consultors and the Exercise of Ecclesial Authority*, JCD dissertation, Ottawa, Saint Paul University, 1986, p. 40 (=HANNON, *The College of Consultors*).

¹³³ *Ibid.*, p. 54.

¹³⁴ *CIC/17*, c. 1303, §4. “Episcopus pro tota dioecesi eiusmodi stipem in dioecesana synodo, si fieri possit, definiat, aut extra synodum, audito capitulo.”

¹³⁵ VILLAMIL, *Legislation on the College of Consultors*, p. 35.

Other canons that gave competence to the diocesan consultors were canon 1428, §1, which required the diocesan bishop to seek the advice of the diocesan consultors before carrying out any act that would affect a canonical parish (being a benefice) such as uniting, transferring, dividing or suppressing the parish.¹³⁶ Also, canon 2292 emphasized that, in a situation where the local ordinary decides to suppress or relocate a parish church as a punitive measure, he could not decree it without the advice of the diocesan consultors.¹³⁷

1.6 The Conciliar and Post Conciliar Development of the Presbyteral Council

We have seen a steady development of church governance from the apostolic era to the era of the 1917 Code of Canon Law. In the course of this survey, we have seen how the advisory role of the presbyteral colleges was gradually taken over by the cathedral chapter and, as time went on, the diocesan consultors emerged as an alternative to the cathedral chapter. We shall now move on to explore the progressive development that took place in the conciliar and post-conciliar era and how the “new way of thinking” of this era led to the emergence of yet another consultative organ called the presbyteral council.

¹³⁶ *CIC/17*, c. 1428, §1. “Locorum Ordinarii uniones, translationes, divisiones, dismembrationes beneficiorum ne faciant nisi per authenticam scripturam, auditis Capiiulo cathedrali et iis, si qui sint, quorum intersit, praesertim rectoribus ecclesiarum.”

¹³⁷ *CIC/17*, c. 2292. “Poenalis suppressio aut translatio sedis episcopalis est Romano Pontifici reservata; sedis autem paroecialis, a locorum Ordinariis decerni nequit, nisi cum consilio Capituli.”

1.6.1 *Lumen gentium*

During the preparation for the Second Vatican Council, one of the issues that emerged was the reformation of the existing consultative bodies of the bishop in the diocese, in particular the cathedral chapter.¹³⁸ Consequently, *Lumen gentium* explains how priests who comprise the *presbyterium* help the bishop in the governance of the diocese. It presents the ministerial priesthood as a participation in the priesthood and mission of Jesus Christ and relates it to the ministry of the college of bishops.

Christ, whom the Father hallowed and sent into the world (Jn. 10:36), has, through his apostles, made their successors, the bishops namely, sharers in his consecration and mission; and these, in their turn, duly entrusted in varying degrees various members of the Church with the office of their ministry. Thus the divinely instituted ecclesiastical ministry is exercised in different degrees by those who even from ancient times have been called bishops, priests and deacons.¹³⁹

This according to Calvo is quite significant in the sense that *Lumen gentium*, by stating that priests are united with the bishop by their common share in the one priesthood of Christ, links the priesthood of the presbyters to that of the bishops. This means that the council did not conceive the role of the priest solely in relation to *munus sanctificandi* but rather extends it also to the other *munera*.¹⁴⁰

Lumen gentium 28 makes it clear that it is through the sacrament of orders that priests are consecrated to this triple office. With this background, *Lumen gentium* 28

¹³⁸ See *Acta et documenta Concilio Oecumenico Vaticano II apparando*, Series I (Antepreparatoria), Appendix ad Volumen II, "Analyticus conspectus consiliorum ac votorum quae ab Episcopis et Praelatis data sunt," Vatican City, Typis Polyglottis Vaticanis, 1960, pp. 519-530. See also VILLAMIL, *Legislation on the College of Consultors*, pp. 45-46.

¹³⁹ *LG*, no. 28, English translation in FLANNERY1, p. 384.

¹⁴⁰ R.R.U. CALVO, *Consultation and the Presbyteral Council: New Emphasis in the ratio legis*, JCD dissertation, Rome, Pontificia Studiorum Universitas A. S. Thoma Aq. in Urbe, 1986, p. 120 (=CALVO, *Consultation and the Presbyteral Council*).

takes a step further to describe the nature of the relationship between bishops and priests: “The priests, prudent cooperators of the Episcopal college and its support and mouthpiece, called to the service of the people of God, constitute, together with their bishop, a unique sacerdotal college (*presbyterium*) dedicated it is true to a variety of distinct duties.” Commenting on the significance of the new relationship of partnership between the priests and their bishop which arises from this unique sacerdotal college, J. Hannon says, “[t]he mention of cooperation with other priests in unity with the bishops gives recognition to elements of the presbyteral role which had been characteristic of the early Church, but which had been lost or submerged in the process of centralization and concentration of power.”¹⁴¹

Finally, *Lumen gentium* places the relationship between the bishop and the priests within the broader context of the diocese and the universal Church, a relationship of communion with the aim of building up the entire body of Christ. Accordingly, *Lumen gentium* goes further to say:

In each local assembly of the faithful they represent in a certain sense the bishop, with whom they are associated in all trust and generosity; in part they take upon themselves his duties and solicitude and in their daily toils discharge them. Those who, under the authority of the bishop, sanctify and govern that portion of the Lord’s flock assigned to them render the universal Church visible in their locality and contribute efficaciously towards building up the whole body of Christ (cf. Eph. 4:12).¹⁴²

¹⁴¹ HANNON, *The College of Consultors*, p. 184.

¹⁴² LG no. 28. CALVO, *Consultation and the Presbyteral Council*, pp. 123-124, gives a summary of the fundamental theological points of *Lumen gentium* which laid the basis for the emergence of the presbyteral council:

“First, the ministerial priesthood is a participation in the consecration and mission of Christ. Second, it exercises not only the function of sanctification but the entire three-fold office, thus including governance. Third, priests form with their bishop one presbyterate, consisting of a relationship of both partnership and subordination. And fourth, the office of presbyters is exercised in relation with the bishop and for the sake of the mission of the Church, both particular and universal.”

1.6.2 *Christus Dominus*

Having laid the foundation for communion in *Lumen gentium*, the council fathers in the decree *Christus Dominus* repeatedly emphasize the mutual dependency and unity that should characterize the episcopal-presbyteral relationship. Accordingly, *Christus Dominus* 16 says: “He [the bishop] should regard them [his priests] as sons and friends. He should always be ready to listen to them and cultivate an atmosphere of easy familiarity with them, thus facilitating the pastoral work of the entire diocese.”¹⁴³ This is not just the case of individual priests collaborating with the bishop in promoting the pastoral welfare of the diocese but more so collectively. Hence *Christus Dominus* 28 says:

The relations between the bishop and the diocesan clergy should be based before all else on supernatural charity, so that their unity of purpose will make their pastoral activity more effective. Therefore, to ensure an increasingly effective apostolate, the bishop should be willing to engage in dialogue with his priests, individually and collectively, not merely occasionally, but if possible, regularly.

This is based on the fact that, “[...] being incardinated in or appointed to a particular church, they are wholly dedicated in its service to the care of a particular section of the Lord’s flock, and accordingly form one priestly body and one family of which the bishop is the father.”¹⁴⁴

1.6.3 *Presbyterorum ordinis*

The Council Fathers, in the decree on the ministry and life of priests, further reemphasized some of the basic issues regarding ministerial priesthood earlier mentioned in the previous documents, namely: through ordination and mission, priests are given

¹⁴³ *CD*, no. 16, English translation in FLANNERY I, p. 573.

¹⁴⁴ *Ibid.*, p. 580.

some share in the threefold functions of Christ as priests, prophets and kings; and the sacrament of orders joins the ministerial priesthood to the episcopal order and differentiates it from the universal priesthood of all the faithful.¹⁴⁵ Hence, the priest is not just a mere representative of his bishop in his local Christian community. Rather, “through that sacrament, priests by the anointing of the Holy Spirit, are signed with a special character and so are configured to Christ the priest in such a way that they are able to act in the person of Christ the head.”¹⁴⁶

Nevertheless, in the exercise of this ministry, just as the bishop himself is expected to be in hierarchical communion with the successor of St. Peter and the college of bishops,¹⁴⁷ *Presbyterorum ordinis* 7 says likewise that “all priests share with the bishops the one identical priesthood and ministry of Christ. Consequently the very unity of their consecration and mission requires their hierarchical union with the order of bishops.”

Having defined the sacramental relationship between priests and their bishop, a relationship which ultimately calls for communion, this document, like *Christus Dominus*, affirms: “Bishops, therefore, because of the gift of the Holy Spirit that has been given to priests at their ordination, will regard them as their indispensable helpers and advisers in the ministry and in the task of teaching, sanctifying and shepherding the people of God.”¹⁴⁸ Based on this sacramental and ministerial relationship, it adds: “On

¹⁴⁵ *PO*, no. 2, English translation in FLANNERY I.

¹⁴⁶ *Ibid.*, p. 865.

¹⁴⁷ *LG*, no. 22.

¹⁴⁸ *PO*, no. 7, p. 875.

account of this common sharing in the same priesthood and ministry then, bishops are to regard their priests as brothers and friends.”¹⁴⁹ United as brothers and friends by the sacrament of orders and in the common sharing in the ministry of Christ, it says that bishops “should be glad to listen to their priests” views and even consult them and hold conference with them about matters that concern the needs of pastoral work and the good of the diocese.”¹⁵⁰

It is important to point out the unique evolutionary style of this document in projecting those elements through which the dream of the council fathers for a relationship of communion between the bishop and his priests could be realized. It is in this light that we find in this document a great shift in the manner through which this relationship is described. For example, while in *Lumen gentium* 28 and *Christus Dominus* 16 the bishop is enjoined to regard his priests as sons and friends, in this current document, as cited above, he is enjoined to regard them as his brothers and friends. This new perspective of viewing priests as brothers and friends of the bishop was necessary to justify the title of priests as prudent and necessary co-workers of the bishop. It is also worth noting that this decree also gives recognition to religious priests as cooperators with the bishop.¹⁵¹

This relationship between the bishops and his priests calls for cooperation and dialogue. Cooperation should not simply be passive; that is to say, priests should not simply be seen as those who carry out the decisions of the bishop. Rather, this document

¹⁴⁹ Ibid., p. 876.

¹⁵⁰ Ibid.

¹⁵¹ *PO*, no. 8.

makes it clear that cooperation involves the active participation of priests in the decision-making process of the bishop. Dialogue, on the other hand, demands from both the bishop and the priests the sharing of ideas and the enabling humility and openness on both sides to accept those ideas which best promote the good of the diocese and the universal Church.

On the basis of the theological foundations established in the above texts, *Presbyterorum ordinis* decrees the establishment of a new body: “But for this to be reduced to practice, a group or senate of priests should be set up in a way suited to present-day needs and in a form and with rules to be determined by law. This group should represent the body of priests and by their advice could effectively help the bishop in the management of the diocese.”¹⁵²

The restoration of the presbyterate as a cooperative body with the bishop was a major development at Vatican II.¹⁵³ While the 1917 Code had few circumstances requiring the bishop to obtain the consent or counsel of the cathedral chapter (or diocesan consultors), Vatican II broadened the scope of council to include “the whole pastoral

¹⁵² *PO*, no. 7, pp. 876-877. Calvo, *Consultation and the Presbyteral Council*, pp. 138-139, states: “The close, sacramental bond between the presbyteral order and the episcopal order and their sharing, in different degrees, in one and the same priesthood and mission of Christ, gave rise to the theological conception of this relationship as a hierarchical communion. On a practical level, this communion implied a reciprocal set of responsibilities between the bishop and his presbyterate. Thus, from a theological consideration, a practical one emerged: the need for some means to carry out the concrete ramifications of this relationship. The Council decreed that each diocese have a senate or assembly of priests so as to put into effect these relational implications. This forum was proposed as an instrument of cooperation and dialogue for the sake of the mission of the Church.”

¹⁵³ R.E. HEMBERGER, “Consultation in the 1983 Code of Canon Law,” JCL thesis, Washington, The Catholic University of America, 1985, p. 38 (=HEMBERGER, “Consultation in the 1983 Code”).

work of the entire diocese.”¹⁵⁴ This would be accomplished through joint planning, the exchange of ideas, and the sharing of common concerns.¹⁵⁵ How all this would be structured juridically was not, however, spelled out by the Council. That is to be found in the implementing legislation of Pope Paul VI, *Ecclesiae sanctae*.

1.6.4 *Ecclesiae sanctae* (1966)

The apostolic letter *motu proprio* of Pope Paul VI, *Ecclesiae sanctae*, aimed at preparing definite norms for the implementation of four decrees of the council.

Accordingly, the decree for the promulgation of the document reads:

Having given the matter mature consideration, of our own volition (*motu proprio*) and with our apostolic authority, we decree and promulgate the following norms for the implementation of the following conciliar decrees: *Christus Dominus* (On the Pastoral Office of Bishops in the Church), *Presbyterorum Ordinis* (On the Life and Ministry of Priests), *Perfectae caritatis* (On the Up-to-date Renewal of Religious Life), and *Ad gentes divinitus* (On the Missionary Activity of the Church). We order that they be observed on an experimental basis—until, that is to say, the new Code of Canon Law shall have been promulgated, unless the Holy See should decide otherwise in the meantime.¹⁵⁶

It is important to emphasize that these norms were promulgated on an experimental basis, so as to give opportunity for more suggestions, while awaiting the special commission on the new Code of Canon Law to determine the norms more clearly and in a better order.

With regard to the presbyteral council, number 15 of the document examines the establishment, the characteristics and the purpose of this body. Accordingly it makes an explicit call for the establishment of the presbyteral council in each diocese. On the

¹⁵⁴ *PO*, no. 7; also *CD*, no. 16.

¹⁵⁵ See HEMBERGER, “Consultation in the 1983 Code,” p. 39.

¹⁵⁶ PAUL VI, Apostolic Letter *Motu Proprio, Ecclesiae sanctae* I, 6 August 1966, in *AAS*, 58 (1966), pp. 757-787; English translation in FLANNERY I, p. 592 (=ES).

essential characteristics of this council, it says that it is to be the senate of priests and representative of the presbyterium. On the purpose of the council, it says, the council by its advice is to give effective assistance to the bishop in ruling the diocese. It adds: “In this council the bishop shall hear the views of his priests and discuss with them the pastoral needs and the good of the dioceses.”¹⁵⁷ No further details are given on the *modus operandi* of the council. Rather, the document simply says, “[t]he manner and forms of its working are to be determined by the bishop.”¹⁵⁸

Since the religious priests working in the diocese also share in the same priesthood and mission of Christ, number 15 of the document continues: “Religious also may be co-opted as members of the [presbyteral council] insofar as they share in the care of souls and works of the apostolate.” Number 15 of the document also specifies some additional norms. The presbyteral council is to be distinct from the cathedral chapter, the diocesan consultors and other existing bodies of similar nature which are to preserve their proper functions and competence until they are revised. On the question of whether the council has a deliberative or consultative voice, it says definitively that “The [presbyteral council] has a merely consultative voice.” On the question of a vacant see, it makes it clear that, “[w]hen the see falls vacant the [presbyteral council] ceases to exist, unless, in special circumstances to be recognized by the Holy See, the vicar capitular or apostolic administrator confirms it in existence.” The new bishop has the obligation of personally establishing a new presbyteral council.

¹⁵⁷ Ibid., no. 15, p. 600.

¹⁵⁸ Ibid.

1.6.5 Circular Letter *Presbyteri sacra* (1970)

The letter of the Sacred Congregation for the Clergy, *Presbyteri sacra*, comes next in the list of documents on the emerging collaborative role of the presbyteral council in the governance of a diocese. This letter was a response to the feedback (information and reflections) received from the worldwide episcopal conferences on their experience following the implementation of *Ecclesiae Sanctae*.¹⁵⁹ The letter emphasizes the great contribution of the Second Vatican Council in projecting the theological basis for this new consultative assembly for the bishop.

A thing which in earlier centuries was seen as a simple postulate or requisite for correct and wise government is also theologically elucidated by the Second Vatican Council which more deeply investigated the nature of the Church. We are taught, for example, by the sacred synod that there exists between the bishop and his priests in a particular church a hierarchical communion in virtue of which the bishop and priests share one and the same priesthood and one and the same ministry although in different degrees, which are determined by the order received and by canonical mission. With this as background, the said synod, in keeping with its pastoral character, wishes that this unity of mission be turned to the good of the diocese by a new kind of consultative instrument [...].¹⁶⁰

What this document seems to elucidate here is that the consultative role of the presbyteral council should be seen from the perspective of the theological nature of the priesthood as well as a requirement for good governance.¹⁶¹

¹⁵⁹ SACRED CONGREGATION FOR THE CLERGY, Circular Letter on Presbyteral Councils, *Presbyteri sacra*, 11 April 1970, in *AAS*, 62 (1970), pp. 459-465, no. 4, English translation in *CLD*, vol. 7 (=SCC, Circular Letter on Presbyteral Councils).

¹⁶⁰ *Ibid.*, no. 3, p. 385.

¹⁶¹ Commenting on the significance of this new basis for consultation, Calvo says: "In other words, the need for the consultative activity of the presbyteral council emerges from reflection on the nature of the Church and of the ministerial priesthood. The purpose of the council is to provide the concrete means whereby the relationship between the bishop and the presbyterate can be directed for the good of the Church. The consultative function of the presbyteral council, then, is a practical exigency of theological proposition; it is not simply or exclusively a requisite for prudential practice. CALVO, *Consultation and the Presbyteral Council*, pp. 143-144.

Number 5 of the letter focuses on the obligation to erect the presbyteral council and alludes to its importance and usefulness which “is already apparent from the very many responses sent by the bishops to the sacred congregation.” It then enumerates some of the many advantages of having a presbyteral council, as ascertained from the feedback of the bishops’ conferences.

[...] contact with the priests is made easier; their views and desires are better known; again, more accurate information on the state of affairs in the diocese can be derived; mutual experiences can be more fittingly communicated; the needs of pastors and God’s flock are more clearly apparent; apostolic enterprises accommodated to today’s circumstances are harmoniously undertaken; finally, through shared labor difficulties are adequately resolved or, at least, explained.

In the light of these advantages, it reiterates the obligation to erect the presbyteral council in every diocese as prescribed by *Ecclesiae Sanctae*: “As a result, the establishment of this kind of council, to be carried out in each diocese in accord with the *motu proprio*, *Ecclesiae Sanctae*, is prescribed as obligatory.”

Number 6 of the letter examines the composition of the council, specifying that the council should represent the whole presbyterate of the diocese. “Consequently, the representative character of the council is effected if, in as far as it is possible, the following are represented within its make-up: (a) the different ministries (pastors, assistants, chaplains, etc.); (b) the regions or pastoral zones of the diocese; (c) the different age groups or generations of the priests.” The letter also gives recognition to the religious in the diocese: “Religious who exercise the care of souls in the diocese or give themselves to the works of the apostolate under the jurisdiction of the bishop may also be included among the members of the council.”

In number 7, the letter determines in broad outlines the composition of the council: “[...] the majority of the members should be selected by vote of all the priests. On the other hand, the other members should be designated directly by the bishop or be declared to be members by the very fact that they hold an office which should be represented in the council (e.g., vicar general, rector of the seminary, etc.)” This approach, according to the letter, has a twofold advantage in helping to foster the confidence of the priests, on the one hand, who feel that they are represented in the council and, on the other hand, gives the bishop assurance of maintaining a balance.¹⁶²

Number 8 of the letter assigns to the council the competence to assist the bishop by its counsel in the government of the diocese. Nevertheless, it ascribes to the bishop the authority to either propose or at least admit those questions that require counsel. In doing this, the letter says, he should be solicitous for the observance of the universal laws of the Church. The matters to be treated by the council are “questions of major moment, whether they pertain to the sanctification of the faithful or the doctrine to be given to them or to the general administration of the diocese.” As representative of the entire presbyterate, the goal of the council should be to promote the good of the diocese (to advocate norms which ought to be set down and to propose questions of principle, without delving into those questions which of their nature demand more discreet manner of procedure).

Number 9 of the letter deals with the consultative character of the council; it calls the presbyteral council “a special consultative organ.” It says, “[i]t is called consultative because it does not possess a deliberative vote,” that is, “[...] it is not competent to make

¹⁶² SCC, Circular Letter on Presbyteral Councils, no. 7.

decisions which bind the bishop unless the universal law of the Church provides otherwise or unless the bishop in individual cases believes it appropriate to give the council a deliberate vote.” Although it has only a consultative voice, it adds that the council is special in that it is preeminent among other advisory bodies by virtue of its nature and procedure.

Number 9 goes on to say that, since the presbyteral council is a sign of hierarchical communion, the counsel offered by the priests should be given for the good of the diocese in union with the bishop and never without him. As a joint undertaking between bishop and the council, the process of consultation “[...] demands on both sides that their mind be aptly prepared and receptive to profound change of views in humility and patience.” Nevertheless, the letter affirms that, after this joint effort, the responsibility to make the final decision belongs to the bishop.

Number 10 of the letter says that “the title and function of the bishop’s senate in the governance of the diocese belongs only to the [presbyteral council].” It adds, however, that related institutions, that is, the cathedral chapter or group of consultors (*Coetus Consultorum*), retain their proper functions and competency until they are revised. The presbyteral council ceases when the episcopal see is vacant, and the cathedral chapter or group of consultors proceed to elect a vicar capitular in accord with canons 427 and 429-444.

The letter *Presbyteri sacra* constitutes a milestone in the development of the concept of the presbyteral council and the discipline governing it. It presents the presbyteral council as the preeminent consultative body and important collaborative organ in the promotion of the welfare of the entire diocese.

1.6.6 *Ultimis temporibus* (1971)

The 1971 Synod of Bishops produced a document on the ministerial priesthood, *Ultimis temporibus*, which also made valuable contributions to the evolving discipline concerning the collaborative role of the presbyteral council in the governance of a diocese. This document, which came as a response to the crises experienced by many priests after the Second Vatican Council,¹⁶³ focuses on several issues, among which was the relationship between priests and bishop.¹⁶⁴ This topic brought out the importance of the presbyteral council in every diocese.

In order to stress the importance of the presbyteral council, the document (in Part II, Section II, no. I) emphasizes what should characterize the relationship between priests and bishop.

The guiding principle expressed by the Second Vatican Council in the decree *Presbyterorum ordinis*, namely that the very unity of consecration and mission requires the hierarchical communion of priests with the order of bishops, is considered fundamental to a practical restoration or renewal, with full confidence, of the mutual relationship between the bishop and the presbyterium over which the bishop presides. This principle is more concretely to be put into practice especially by the diligence of the bishops.

Since the use of authority in this relationship was one of the issues brought forward for discussion, it continues:

The service of authority on the one hand and the exercise of not merely passive obedience on the other should be carried out in a spirit of faith, mutual charity, filial and friendly confidence and constant and patient dialogue. Thus the collaboration and responsible cooperation of priests with the bishop will be sincere, human and at the same time supernatural.

¹⁶³ SYNOD OF BISHOPS, document *Ultimis temporibus*, in *AAS*, 63 (1971), pp. 898-922, promulgated by COUNCIL FOR THE PUBLIC AFFAIRS OF THE CHURCH, rescript *ex audientia Sanctissimi*, 30 November 1971, in *AAS*, 63 (1971), p. 897; English translation in FLANNERY2, Introduction, no. 1 (=UT).

¹⁶⁴ *Ibid.*, Part II, Section II, no. 1.

The bishop has an important role to play in creating this atmosphere because “the guarantee of these conditions is the bishop’s authority, to be exercised in a spirit of service.” While the individual relationship between the priests and bishop is important, it is not sufficient for effective and well ordered collaboration. Hence, it adds:

The [Presbyteral Council], which is of its nature something diocesan, is an institutional manifestation of the brotherhood among priests which has its basis in the sacrament of Orders.

The activity of this council cannot be fully shaped by law. Its effectiveness depends especially on a repeated effort to listen to the opinions of all in order to reach a consensus with the bishop, to whom it belongs to make the final decision.

The goal of the council is to promote the mission of the Church. Accordingly, it continues: “The [Presbyteral Council] is an institution in which priests recognize, at a time when variety in the exercise of their ministry increases every day that they are mutually complementary in serving one and the same mission of the Church.” In order to achieve this goal, the council is to focus on some specific objectives.

It is the task of this Council, among other things, to seek out clear and distinctly defined aims, to suggest priorities, to indicate methods of acting, to assist whatever the spirit frequently stirs up through individuals or groups, and to foster the spiritual life, whence the necessary unity may more easily be attained.

Finally, the Synod stresses the need for religious priests to collaborate with the bishop: “The collaboration of religious priests with the bishop in the presbyterium is necessary, though their work is of valuable assistance to the universal Church.”

1.6.7 *Ecclesiae imago* (1973)

The 1973 Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*, is another document that treats the collaborative role of the presbyteral council in the governance of a diocese. This document, which deals at length with the means through which the bishop can foster communion in his diocese, says clearly that a bishop should

always act with an informed conscience.¹⁶⁵ The presbyteral council, which is the only senate of the bishop, constitutes the primary organ that aids the bishop through counsel and, by so doing, positions him to act with an informed conscience.

Although this directory does not add anything new to the evolving discipline on the role of the presbyteral council, it reemphasizes those issues mentioned in previous documents as a reminder to the bishops of the indispensable collaborative role of this council in diocesan governance. Among the issues highlighted in number 203 of the directory are the following.

The hierarchical communion of the bishop and his presbytery, founded on the unity of the ministerial priesthood and mission, manifests itself in some way, i.e., in an *institutional* form and works for the welfare of the diocese through the [presbyteral council].

This council which is diocesan in nature and must be established in each diocese (cf. *Presbyterorum ordinis* 7) is “the assembly or senate of priests, representing the presbytery, which can with its advice assist the bishop effectively in the government of the diocese” (*Presbyterorum ordinis* 7).

The [presbyteral council], which alone has the title and function of the “bishop’s senate,” deals with more important questions – if the bishop proposes them or permits their study [...].

The [presbyteral council] is a consultative body only, since it does not enjoy a deliberative vote; but it is special in that by its very nature and manner of procedure, it has a higher place than other bodies of the same kind.

The council will have a representative character if, in as far as possible, the various ministries, regions and pastoral areas of the diocese are represented, as well as the various age-groups of the priests. The majority of its members are elected by the vote of all the priests, using the procedure prescribed by the council’s statutes.

The directory adds that the council is to prepare its own constitution, subject to the approval of the bishop, after taking into account what the Apostolic See and the episcopal conference have said in this matter. Finally, it re-echoes the call to the episcopal

¹⁶⁵ SACRED CONGREGATION FOR BISHOPS, *Directory on the Pastoral Ministry of Bishops, Ecclesiae imago*, 22 February 1973, Typis polyglottis Vaticanis, 1973, no. 113 (=SCB, *EI*).

conferences to form common plans and formulate guidelines which each bishop will follow and adapt to his own diocese on matters relating to the presbyteral council, the pastoral council, their mutual relationships and cooperation with other consultative bodies.¹⁶⁶

Conclusion

From the earliest era of Christianity, collaboration has been an essential aspect in the governance of the Church.¹⁶⁷ Concerning the government of the particular churches, “canonical legislation always assigned to bishops some kind of consultative instrument, made up especially of priests, to which the bishops themselves were obliged to listen or whose consent they were obliged to obtain in certain matters of greater importance.”¹⁶⁸ This collaboration was apparent in the portrait of the presbyters who governed some of the earliest Christian communities collegially (confer, I Tim, 4:14). Even when the bishop gradually emerged as the head of the college of presbyters and attained a superior position in the third century, collaboration was not extinguished; rather, the college of presbyters became his counselors.

With the spread of Christianity, presbyters were sent to the neighboring villages where they exercised individual ministries. This led to the decline of presbyteral

¹⁶⁶ Ibid., no. 203.

¹⁶⁷ J.H. PROVOST puts it: “From earliest times the Catholic Church has attempted a two-fold approach to governance. One element is the individual official responsible for a particular function. A complementary element has been a group or *collegium* who balance the individual with their support, insight, perspective, advice, and at times their opposition. The balance between these two has varied, but the existence of both has been considered important.” See “The Working Together of Consultative Bodies—Great Expectations?” in *The Jurist*, 40 (1980), p. 260 (=PROVOST, “The Working Together”).

¹⁶⁸ SCC, Circular Letter on Presbyteral Councils, no. 3, p. 385.

collegiality. With this decline, the presbyters were no longer consulted by the bishop in the administration of the diocese.¹⁶⁹ Yet, collaboration was not extinguished. Rather, a new body emerged, the cathedral chapter, consisting of the priests who remained at the cathedral with the bishop. This body was consulted by the bishop in the administration of the diocese and became known as the bishop's council or senate. Over time, the cathedral chapter attained certain legal rights and became powerful, so much so that bishops sometimes perceived it more as a hindrance than a help in church governance.¹⁷⁰

With the spread of the faith to the Americas and Australia, a new juridical structure developed to substitute for the cathedral chapter which was too cumbersome for these new churches in the early stages of development. Conscious of the importance of collaboration, the bishops there had to devise another means of achieving good governance, namely, the diocesan consultors, to whom were granted the competence of the cathedral chapter of giving counsel to the bishops.

The Second Vatican Council firmly established a theological basis for consultation and collaboration, leading to the establishment of yet another body called the presbyteral council. This council, representative of the presbyterium of the diocese, has since acquired in law a special, pre-eminent place among other consultative bodies of the diocese. With the broad scope of promoting the good of the entire diocese, this council has therefore been positioned as the most significant organ of collaboration in the governance of the particular church.

¹⁶⁹ PURCELL, "The Institute of the Senate of Priests," p. 137.

¹⁷⁰ Ibid., p. 139.

CHAPTER TWO

THE PRESBYTERAL COUNCIL IN THE 1983 CODE OF CANON LAW AND SUBSEQUENT DOCUMENTS OF THE HOLY SEE

Introduction

We have seen in the previous chapter the kind of collaboration that characterized the early Christian communities and that underlay the activities of the cathedral chapter and diocesan consultors in the 1917 Code. In our review of the conciliar and post-conciliar documents, we have seen the new emphasis on the theological basis for consultation and collaboration between the diocesan bishop and his priests in the governance of the diocese. In the 1983 Code of Canon Law, the legislator for the first time put into the codified law of the Latin Church the conception of the presbyteral council as an important organ of consultation and collaboration in diocesan governance.

In this chapter, we shall explore the various canons of the 1983 Code on the role of the presbyteral council in the governance of a diocese. We shall examine the notion and nature of the presbyteral council, its composition and manner of operation. We shall also compare this council with similar diocesan consultative organs and examine the conditions under which this council could be dissolved. Thereafter, we shall discuss how this council is expected to foster good governance, particularly in its advisory capacity to the diocesan bishop. The chapter will also include some exegesis of certain other canons related to this study, taking account of the interpretations that canonical authors have given them. We shall then proceed to discuss the presbyteral council in the 1990 Eastern Code and in the other juridical texts of the Holy See after the 1983 Code, most notably the 2004 Directory on the Pastoral Ministry of Bishops.

2.1 Notion of the Presbyteral Council in the 1983 Code

The canons on the presbyteral council begin by noting that “[i]n each diocese a presbyteral council is to be established, that is, a group of priests which representing the *presbyterium* is to be like a senate of the bishop [...]”¹ The term “presbyteral” was first used in connection with this council in *Ecclesiae sanctae* to designate that grouping of priests envisioned by the conciliar fathers.² The term “presbyteral council” was subsequently adopted by the legislator in the 1983 Code. In English, this concept is synonymous with the “council of priest” or the “senate of priests.”³ It suffices to mention here that the word “presbyteral” comes from presbyter which indicates that this council is reserved to priests.

2.1.1 Representative of the *Presbyterium*

Canon 495, §1 describes the presbyteral council as a group of priests which represents the presbyterium of the diocese. Marchesi says that “[t]he diocesan presbyterium is the matrix for the existence and activities of the council [...]”⁴ Hence, while “[t]he entire presbyterate functions as collaborators with the diocesan bishop in his pastoral care of the diocese, this council symbolizes, represents, and concretizes that

¹ *CIC*, c. 495, §1; English translation, *Code of Canon Law*, Latin-English edition, New English Translation, prepared under the auspices of CLSA, Washington, DC, CLSA, 1998. “In unaquaque dioecesi constituatur consilium presbyterale, coetus scilicet sacerdotum, qui tamquam senatus sit Episcopi, presbyterium repraesentans [...]”

² *ES*, nn. 15 and 17. See also M. MARCHESI, “The Council of Priests and College of Consultors (cc. 495-502),” in *Exegetical Comm*, vol. II, no. 2, p. 1190 (=MARCHESI, “Council of Priests”).

³ J.I. ARRIETA, “Title III: The Internal Ordering of Particular Churches (cc. 460-514),” in *CCLA*, p. 409 (=ARRIETA, “Particular Churches”).

⁴ MARCHESI, “Council of Priests,” p. 1194.

collaboration by its direct interaction with the diocesan bishop in a manner that ordinarily would not be feasible with the entire presbyterate of a diocese.”⁵

Juridical doctrine acknowledges four principal kinds of representation: voluntary, legal, organizational and political.⁶ The representation of the presbyteral council does not fall into any of the first three. Since the Church is theological in nature, in that its sovereignty does not lie with the people but with Christ, we cannot apply political representation directly to the presbyteral council. Nevertheless, the council could be seen as an “indirect political representation” since it assumes a specific exercise of some sort of “political” power granted to it by the priests to whom that power belongs.⁷

This indirect political representation could also be seen in the fact that the presbyteral council is always the representative of the priests in the diocese in the assistance that the members render to the bishop in the governance of the diocese. While this representation is more obvious in relation to the elected members of the council, it is significant to mention that even the appointed members and the *ex officio* members are also representatives of the presbyterium. This is not a representation based strictly on number but, as Arrieta remarks, is rather a moral representation, that is, a reflection of the whole presbyterium and of the variety of functions, circumstances, and offices inherent to it.⁸

⁵ CUSACK, “Presbyteral Council,” p. 653.

⁶ MARCHESI, “Council of Priests,” p. 1194, says: “[...] the first three are not applicable since they are related to a physical person, to a juridical person, and to an organization that represents an administrative entity.”

⁷ *Ibid.*, p. 1196.

⁸ ARRIETA, “Particular Churches,” p. 410.

2.1.2 An Advisory Body to the Bishop

Canon 495, §1 describes the presbyteral council as a group of priests, which like a senate of the bishop, aids the bishop in the governance of the diocese according to the norm of law in order that the pastoral welfare of the portion of the people of God entrusted to him may be promoted as effectively as possible. This description is very significant in appreciating the important role of this council. In the 1917 Code, the title “senate” was used to refer to the chapter of canons and the diocesan consultors (*CIC/17* cc. 391, §1 and 427), but in the 1983 Code it is reserved for the presbyteral council. The title “senate” describes in a unique way the role of the council and its style of interaction with the diocesan bishop.⁹

Like a senate, this body serves a representational as well as an advisory role. This advisory role is the juridical purpose for the institution of this council. Hence, it is the responsibility of this council to specify and formulate what is necessary to achieve good governance in the light of the various circumstances in the diocese.¹⁰ With regard to its specific purpose, Marchesi states:

It is evident that one cannot exclude *a priori* that the council of priests collaborates in the determination and study of all that is important to diocesan life; but its specific purpose is oriented toward governance, not only in the sense of being an organization that executes a law, but also and, especially, of being an organization that contributes directly to the bringing forth of a norm.¹¹

While the bishop may choose to reserve some matters to himself or entrust such matters to other offices or persons, Marchesi is of the opinion that no matter should ordinarily be

⁹ CUSACK, “Presbyteral Council,” p. 653.

¹⁰ MARCHESI, “Council of Priests,” p. 1196.

¹¹ *Ibid.*, p. 1197.

excluded from the opinion or deliberations of the presbyteral council.¹² In the exercise of this advisory role, each and every member of this council must have in mind the moral obligation to promote the best pastoral good of the diocese. This should be the overriding concern of all the members of the council and must take precedence over the interests of any individual person.

2.1.3 An Obligatory Organ of Governance

Canon 495, §1 makes it clear that a presbyteral council is to be established in each diocese (*in unaquaque dioecesi constituatur consilium presbyterale*). In other words, the juridical requirement for the establishment of the presbyteral council is not optional for a diocesan bishop, as is the case with the diocesan pastoral council (c. 511). It is a canonical requirement and, as such, it is obligatory for every diocesan bishop to establish this body within one year of taking canonical possession of the diocese (c. 501, §2). The obligatory requirement of the presbyteral council flows from the Second Vatican Council's teachings on the nature of the Church, the ministerial priesthood and canonical mission, as discussed in the previous chapter. It is also rooted in the value of consultation in canon law, which in numerous instances requires a superior to seek advice (cf. c. 127), before carrying out certain acts of administration.¹³

¹² Ibid. He provides the following reasons: "The priests, in effect, by virtue of holy orders, participate in the one and only priesthood and ministry of the bishops. They also participate, though in a subordinate degree, in the triple *munus* of sanctifying, teaching, and ruling. Therefore, the participation of the priests in the pastoral governance of the diocese does not have binding limits: they can participate in everything, as long as it is granted to them. That power of the priests is what passes later to the council of priests, therefore, likewise the council in itself can participate in the complete exercise of pastoral power."

¹³ See section (2.5.3) below for a discussion on some of these situations.

Canon 495, §2 does not impose the same obligation to establish the presbyteral council on vicariates and prefectures apostolic but says that the vicar or prefect is to appoint a council composed of at least three missionary priests, whose opinions, even by letter, he is to hear in more serious affairs.¹⁴ This requirement further reinforces the importance of consultation and collaboration, even in smaller or less developed particular Churches. While the vicar or prefect uses his discretion to determine what constitutes serious matters, it is nevertheless necessary for him to establish this council consisting of at least three priests.

In a similar way, Pope Benedict XVI in his apostolic constitution *Anglicanorum coetibus* provided that in personal ordinariates established for former Anglicans the ordinary is to be aided in his governance by a “governing council.” This governing council, which is composed of at least six presbyters and which is presided over by the ordinary, exercises the functions specified in the Code for the presbyteral council and the college of consultors.¹⁵

¹⁴ *CIC*, c. 495, §2. “In vicariatibus et praefecturis apostolicis Vicarius vel Praefectus constituent consilium ex tribus saltem presbyteris missionariis, quorum sententiam, etiam per epistolam, audiant in gravioribus negotiis.” Although the Code does not oblige the vicar or prefect to consult this “council of mission” in the matters where the diocesan bishop must consult the presbyteral council, it is our opinion that these matters are of such importance that they could be considered more serious affairs.

¹⁵ BENEDICT XVI, Apostolic Constitution *Anglicanorum coetibus*, 4 November 2009, in *AAS*, 101 (2009), pp. 985-990, art. 10; English translation in *Origins*, 39 (2009), pp. 388-390. It is important to note however that although half the members are elected by the priests of the ordinariate, membership of the governing council is not restricted to priests but is determined according to the ordinariate’s statutes. See CONGREGATION FOR THE DOCTRINE OF FAITH, Complementary Norms for the Apostolic Constitution *Anglicanorum coetibus*, 4 November 2009, in *Origins*, 39 (2009), pp. 390-392 (=CN). See also J. M. HUELS, “*Anglicanorum coetibus*: Text and Commentary,” in *Studia canonica* 43 (2009), p. 410.

2.1.4 Consultative in Nature

We have mentioned that canon 495, §1 makes the presbyteral council mandatory for each diocese and assigns to it the role of advising the bishop in the pastoral governance of the diocese. In the different sections of the Code, specific situations are identified in which the bishop must request its advice; nevertheless, despite this necessity to request its advice, canon 500, §2 says categorically that “the presbyteral council possesses only a consultative vote; the diocesan bishop is to hear it in affairs of greater importance but needs its consent only in cases expressly defined by law.”¹⁶ This canon makes it clear that, except when the universal law decrees that the bishop should request the consent of this council in certain cases or when the diocesan bishop on his own volition decides to request the consent of this council, the presbyteral council is a consultative body.

2.1.4.1 The Concept of Consultation

Consultation is the act of seeking advice or information from other persons or sources; it could also mean sitting in council to reflect with others or one’s colleagues.¹⁷ In the canonical doctrine on the 1917 Code (c. 105, 1°), there was a controversy on whether the requirement to seek consultation was necessary for the validity of an act. The main question for the canonists was whether consultation was essential for a juridical act

¹⁶ *CIC*, c. 500, §2. “Consilium presbyterale gaudet voto tantum consultivo; Episcopus dioecesanus illud audiat in negotiis maioris momenti, eius autem consensu eget solummodo in casibus iure expresse definitis.”

¹⁷ D.O. BOLANDER et al. (eds.), *The New Lexicon Webster’s Encyclopedic Dictionary of the English Language* (Canadian edition), New York, Lexicon Publications, 1988, p. 210 (=BOLANDER et al. [eds.], *The New Lexicon Webster’s Encyclopedic Dictionary*).

when it was required by law.¹⁸ Boudinhon argued that consultation cannot be regarded as an intrinsic and necessary element of the juridical act.¹⁹ Bastnagel, on the other hand, argued that if the Church authority or the law establishes that certain conditions are essential and preliminary to an act, as in the case of consultation, they become as indispensable for the constitution of the act as are the causal elements which actually produce the act. Hence, he concluded that canon 105, 1° made counsel or consultation a *conditio sine qua non* for the valid constitution of the superior's act.²⁰

In the present Code, this controversy is resolved in canon 127, §2, 2° which states that “[i]f counsel is required, the act of a superior who does not hear those persons is invalid [...]”²¹ While the bishop is therefore obliged to listen to the presbyteral council in those matters where advice is required, this same canon adds that the superior is not in any way bound to accept their vote. This is a reiteration of article 9 of the 1970 Circular Letter from the Congregation for the Clergy.

The [presbyteral] council is a special consultative organ. It is called consultative because it does not possess a deliberative vote. As a result it is not competent to make decisions which bind the bishop unless the universal law of the Church

¹⁸ A. ALAGUSELVAN, *Priests' Council, a Representative Body of the Presbyterium in the Governance of the Diocese: Juridical Study of Canon 495§1 and Its Relevance in Today's Context* (Extractum), Rome, Pontificia Universitas Urbaniana, 1998, p. 34 (=ALAGUSELVAN, *Priests' Council*).

¹⁹ A. BOUDINHON, “Circa c. 105, 1°, An nullus semper sit actus superioris non petito consilio?” in *Ius Pontificium*, 8 (1928), pp. 29-35. This position seems to have received support also in BOUSCAREN-ELLIS, *Canon Law, A Text and Commentary*, Milwaukee, Bruce, 1946, p. 91.

²⁰ C. BASTNAGEL, “The Requirements of Consultation for Valid Action,” in *The Jurist*, 9 (1949), p. 377.

²¹ *CIC*, c. 127, §2, 2°. “si consilium exigatur, invalidus est actus Superioris easdem personas non audientis[...].”

provides otherwise or unless the bishop in individual cases believes it appropriate to give the council a deliberative vote.²²

2.1.4.2 Consultation and Consent

The term consultative voice refers to a person, group of persons or college who by the prescript of law are to be heard or consulted on a matter before action is taken.²³ When the law makes such a consultation compulsory, it means that such person or persons must be heard or consulted even if the opinions or suggestions derived from such consultation, even if unanimous, is not taken in the long run. If such person or persons are not heard and action is taken, that action may be invalid or at least illicit.²⁴ Those with consultative voice may be required to cast votes which may aim towards achieving a consensus. While such a vote cast may help to arrive at a consensus, the superior who seeks the advice is not bound to act in accordance with such a consensus, since a consultative vote does not limit the freedom of the superior to act. In fact, canon 127, §2, 2° says, if advice is required, the superior is not in any way bound to accept such advice, even if it is unanimous. It concludes, however, with a caution that, without what is, in his or her judgment, an overriding reason, the superior is not to act against their vote, especially if it is a unanimous one.

²² SCC, Circular Letter on Presbyteral Councils, no. 9. While this document says the bishop in individual cases may give this council a deliberative vote, the present Code does not use deliberative vote but uses consent. Accordingly, canon 500, §2 says the diocesan bishop needs its consent only in cases expressly defined by law.

²³ E.O. NWABUDE, *An Encyclopedic Dictionary of Canon Law of the Western (CIC 1983) Church and Eastern (CCEO 1990) Churches*, Onitsha, Africana First Publishers Limited, 2008, pp. 244 (=NWABUDE, *An Encyclopedic Dictionary*).

²⁴ Ibid.

Although we have mentioned that the presbyteral council is by nature a consultative organ, canon 500, §2 stipulates that the bishop “[...] needs its consent only in cases expressly defined by law.” The 1970 Circular Letter of the Sacred Congregation for Clergy had mentioned that, although the presbyteral council is a consultative organ, it is a special consultative organ and, as such, it may not possess a deliberative vote or make decisions which bind the bishop; but the universal law of the Church or the bishop in individual cases may give this council a deliberative vote.²⁵

The term “deliberative voice” refers to the power of some persons or group of persons to entertain or deliberate on an issue, in which case the consent of such persons or group of persons must be secured before the authority can act in a given situation. If the authority acts without securing such consent or acts contrary to it when secured, he acts invalidly if stipulated in law.²⁶ The term *deliberative vote*, has the same connotation; it refers to only the accredited members of a group or body who can validly cast their votes.²⁷ If the law so stipulates, the authority acts invalidly without securing the consent of the group or acts contrary to it when secured.

With particular reference to the presbyteral council, canonical opinions differ on whether or not there are cases or situations in the universal law that require the deliberative vote of this council. While Read is of the opinion that such a case does not

²⁵ SCC, Circular Letter on Presbyteral Councils, no. 9.

²⁶ NWABUDE, *An Encyclopedic Dictionary*, p. 244.

²⁷ *Ibid.*, p. 245. An example of this is found in the case of the Episcopal Conference in which only those bishops and superiors of Institutes of consecrated life, who are members of the Episcopal Conference, can validly cast deliberative vote.

exist in the current universal law,²⁸ Arrieta seems to suggest that the selection of the pastor's consultors in accordance with canon 1742, §1 is a matter in which the consent of the presbyteral council is required rather than mere counsel.²⁹ Canon 1742, §1 states:

If after an inquiry has been conducted, it is proven that a cause mentioned in can. 1740 is present, the bishop is to discuss the matter with two pastors from the group permanently selected for this by the presbyteral council after their being proposed by the bishop; but if subsequently he decides that the removal must take place, he is paternally to persuade the pastor to resign the pastorate within a period of fifteen days, after he has explained, for validity, the reason and the arguments for removal.³⁰

We agree that the presbyteral council is required by this canon to act, but it is not truly an act of consent; it is an act of a different nature done by the council itself, not the bishop, namely, the act of selecting the group of pastors in question. The bishop proposes the names, and the council selects from among or ratifies the list proposed by the bishop. In any case, it is obvious that there are no clearly defined situations in the current universal law that require the deliberative vote of the presbyteral council for the purpose of giving consent.

With regard to particular law, however, the bishop can voluntarily request the consent of the presbyteral council. In fact, this could even be included in the statutes. Archbishop N. Jubany has often been quoted in this regard. According to him, the consultative nature of the council does not exclude the possibility of the bishop granting a

²⁸ G. READ, "Particular Churches and their Groupings (cc. 368-572)," in *CLSGBI Comm*, p. 277 (=READ, "Particular Churches and their Groupings").

²⁹ ARRIETA, "Particular Churches," p. 414.

³⁰ *CIC*, c. 1742, §1. "Si ex instructione peracta constiterit adesse causam de qua in can. 1740, Episcopus rem discutiat cum duobus parochis e coetu ad hoc stabiliter a consilio presbyterali, Episcopo proponente, selectis; quod si exinde censeat ad amotionem esse deveniendum, causa et argumentis ad validitatem indicatis, parochi paterne suadeat ut intra tempus quindecim dierum renuntiet."

deliberative vote [the power to give consent] to its members; the bishop is able to do this without changing the consultative character of the council.³¹

In the light of the administrative crises that the Church is currently experiencing, which are closely connected with the value of decisions that Church authorities have made or failed to make in the past, we believe that diocesan bishops should come to appreciate the value of requesting the consent of this council in more important matters. This, in the long run, will encourage both the council members and the entire presbyterate to put forth their best for the pastoral good of the diocese, knowing that the bishop does not have a selfish interest or hidden agenda in his administration of the diocese. M. Payá Andrés opines that a restricted notion of the role of the presbyteral council as exclusively consultative does not sufficiently express the conception that the Second Vatican Council had of the council as an organ of collaboration in diocesan governance. He thinks that reducing the role of the council to consultation, without any nuance, disregards the profound originality of this institution.³²

2.1.4.3 The Significance of Consensus

Various authors have expressed the inadequacy of describing the presbyteral council strictly in terms of whether it is consultative or deliberative since these two terms

³¹ The statement of archbishop N. Jubany is cited in M. MARTÍNEZ TÁRRAGA, *El Consejo presbiteral, senado del obispo: Una corresponsabilidad posible en la Iglesia diocesana*, Madrid, Propaganda Popular Católica, 1973, p. 91, footnote 152. “La naturaleza consultiva del Consejo no excluye que en algunas materias, el obispo otorgue libremente a sus miembros un voto deliberativo. Puede hacerlo, sin que ello cambie el carácter fundamentalmente consultivo de la institución.” See also ALAGUSELVAN, *Priests’ Council*, p. 28.

³² M. PAYÁ ANDRÉS, *Los Consejos presbiterales y pastorales en España*, Valencia, Facultad de Teología San Vicente Ferrer, 1979, pp. 153-155.

come from the civil society and do not completely fit into the ecclesiastical sphere.³³

Calvo, for example, states:

When these categories are taken in a strict sense, an “either/or” situation is created: either one has the power to decide (the deliberative vote) or one does not (the consultative vote). Thus these terms do not describe how bishop and priests work together through the presbyteral council but merely prescribe what each separate entity (bishop vs. presbyterate) can or cannot do.³⁴

Calvo concludes that “[t]he terms thus do not inform the collaborative effort itself or indicate the dynamic of cooperative decision-making.”³⁵

This is particularly significant since the value of the consultative activity of the presbyteral council should not be viewed in terms of who does this and who does that, whether the bishop or the council, but in terms of how the decisions that emanate from the joint efforts of the bishop and the council effectively promote the pastoral good of the diocese. In other words, the concerns should be whether those decisions are the best decisions that could have been made under those situations and whether those decisions promote, in the best possible way, the good of the diocese and the mission of the Church and lastly whether in the future it could be said that those were wise decisions. Hence, William Hughes says, “[t]he final decision is obviously important. Yet the way that the final decision is reached can often be equally important. The authority of the executive leader needs to be tempered by the ability of the participants to influence the decision.”³⁶

³³ See F. COCCOPALMERIO, “De persona iuridica iuxta schemas Codicis novi,” in *Periodica*, 70 (1981), pp. 382-383. Vilela also shares this opinion in view of the danger of projecting onto the ecclesiastical sphere categories derived from the civil society. See A. VILELA, “Réflexion théologique sur les Conseils presbytéraux,” in *Nouvelle revue théologique*, 94 (1972), p. 596.

³⁴ CALVO, *Consultation and the Presbyteral Council*, p. 255.

³⁵ *Ibid.*

³⁶ W. HUGHES, “Not Lords, but Servants,” in *Origins*, 15 (1985-1986), p. 482.

The term “consensus” has been proposed by some canonists as an objective that better expresses both the presbyteral council’s collaborative role and the unique relationship between the bishop and the council. When a consensus is achieved, the bishop’s unique authority in governance is balanced with the aspirations of priests who want a greater role in decision-making.³⁷ “Consensus” ordinarily means agreement or concord regarding opinion, evidence, authority and testimony.³⁸ It implies that both the bishop and the council have a joint responsibility to dialogue and examine the various issues brought forward with the best of their ability, so as to arrive at what is truly best for the diocese and the mission of the Church.

Consensus is that unity of mind and will achieved by those who seek the good of the Church before all other considerations and who are willing to accept a temporary solution or perhaps a middle course, because it is the only workable one in a given situation and because it will hasten the progress of the pilgrim church and give room for the spirit to work.³⁹

The 1971 Synod of Bishops alluded to the limits of the law in shaping the effectiveness of the presbyteral council. Hence, the synod called on the bishop and the council to strive to reach a consensus. “The activity of this council cannot be fully shaped by law. Its effectiveness depends especially on a repeated effort to listen to the opinions of all in order to reach a consensus with the bishop, to whom it belongs to make the final decision.”⁴⁰

³⁷ B.A. ROSSI, *Priests’ Senates*, Rome, Pontificia Universitas Gregoriana, 1979, p. 241 (=ROSSI, *Priests’ Senates*).

³⁸ BOLANDER et al. (eds.), *The New Lexicon Webster’s Encyclopedic Dictionary*, p. 207.

³⁹ ROSSI, *Priests’ Senates*, p. 242.

⁴⁰ *UT*, Part II, Section II, no. 1, p. 691.

Consensus demands that the bishop provides an atmosphere that allows the council members to examine the issue or problem presented freely, openly and sincerely, and to give their opinions or counsel without fear or prejudice based on their convictions and on what they know about the facts of the matter presented. Following such a dialogue, the council members arrive at a consensus opinion deriving from the views elicited by the majority of the council members, having examined the issue from the various perspectives. This consensus opinion could be arrived at by balloting, parliamentary procedure, or discernment.⁴¹

The significance of a consensus opinion is in the authority that it has as a group opinion which arises from the views of the majority of those concerned, having examined the issue thoroughly and sincerely without prejudice, fear or favour. While it may not be advisable for the bishop to act contrary to such a consensus opinion, particularly if the issue had been thoroughly examined and the consensus opinion is also unanimous, the law allows him to act contrary to such opinion if he sincerely feels (presumably without selfish interest) that their counsel was wrong (c. 127, §2, 2°).

There may be need in the future for the Code to mandate or recommend consensus as a decisional process for the presbyteral council – at least in some unique situations. It may be desirable to have a procedure that a bishop should follow in order to act validly against a unanimous or a consensus opinion or counsel of the presbyteral council. This would be a concrete affirmation of the Church's teachings on the relationship between the bishop and the presbyteral council and the significance of this council in the pastoral governance of the diocese. Such a procedure could require the bishop to discuss an issue over again with the college of consultors or even the provincial

⁴¹ See ALAGUSELVAN, *Priests' Council*, p. 44.

bishops and request their consent before acting validly. This could be a means to avoid making some preventable mistakes, like those that have been made in the history of the Church and are still being made in many parts of the world.

2.1.5 Diocesan in Scope

The presbyteral council is one of the organs of consultation in the governance of a diocese. It is to be established by the diocesan bishop himself and when the see is vacant, that is, when the diocesan bishop dies, resigns, or retires, it ceases to exist (c. 501, §2). This council does not have a separate juridical personality nor can it function independently of the diocesan bishop whose duty it is to convoke the council, preside over it, and determine matters to be treated by it (c. 500, §1). This is one element that differentiates the presbyteral council from the cathedral chapter which is a public juridic person with corporate rights and duties, and which owes its erection, alteration, or suppression to the Holy See (c. 504). The presbyteral council is strictly diocesan, requiring no act of the Holy See for its existence. The bishop establishes it to aid him in the governance of the diocese; it serves primarily the needs of the diocese; membership is open to the priests incardinated in the diocese or those who work or have domicile or quasi-domicile in the diocese; strictly speaking, it has no juridic responsibility outside the diocese. Hence the 2004 Directory for the Pastoral Ministry of Bishops says categorically that “[t]he council is firmly rooted in the concrete reality of the presbyterate and in the particular ecclesial mission that falls to the priests as principal co-workers of the order of Bishops. The council is therefore „diocesan“ by nature.”⁴²

⁴² CONGREGATION FOR BISHOPS, *Directory for the Pastoral Ministry of Bishops Apostolorum successores*, Vatican City, Libreria Editrice Vaticana, 2004, no. 182, p. 198 (=AS).

2.2 Composition of the Presbyteral Council

Having discussed the concept and nature of the presbyteral council and having also explored the means through which the council collaborates with the bishop in the governance of the diocese, we shall now proceed to discuss how the presbyteral council is composed. This will include a study of the significance of the norms of the conference of bishops, how the council is constituted, those who should be members of the council, the size of the membership, the tenure of office for the members, and the statutes of the council.

2.2.1 Significance of the Norms of the Conference of Bishops

Beside the supreme authority of the Church, the presbyteral council is also regulated by the law of the conference of bishops in the region or country where the diocese is situated. According to canon 496, “[t]he presbyteral council is to have its own statutes approved by the diocesan bishop, attentive to the norms issued by the conference of bishops.”⁴³ Although the conference of bishops may not interfere in the day-to-day running of the presbyteral council, it has the right to make norms which bishops in the territory are to take into consideration before approving the statutes of the presbyteral council. All the dioceses of the territory are obliged to conform to such norms.⁴⁴ The significance of this is to achieve a certain degree of uniformity in the structure and activities in all the presbyteral councils of the territory.⁴⁵ Such regulatory norms of the

⁴³ *CIC*, c. 496. “Consilium presbyterale habeat propria statuta ab Episcopo dioecesano approbata, attentis normis ab Episcoporum conferentia prolatis.”

⁴⁴ CUSACK, “Presbyteral Council,” pp. 654-655. Cf. c. 455, §2.

⁴⁵ ARRIETA, “Particular Churches,” p. 411.

conference of bishops will usually vary from one country or territory to another depending on the local circumstances of the place. In general, these norms should regulate those elements that comprise statutes, such as council membership, term of office, number of meetings per year, committees, and relationship with other consultative organs.

2.2.2 The Manner of Constituting the Presbyteral Council

Our concern here is how the presbyteral council is to be brought into existence or established in a diocese. This is most important for those dioceses that have either just been erected or have long been erected but have never had a presbyteral council, as well as for those dioceses whose presbyteral councils have been dissolved *ipso iure* and now have new bishops with the obligation to establish this council. Whatever the case, canon 501, §2 says emphatically that “[w]ithin a year of taking possession a bishop must establish the presbyteral council anew.” This implies that, within one year, the bishop should have sufficiently familiarized himself with the diocese such that he is able to determine its organizational and structural needs. For such organization to be done in the spirit of communion (*unum presbyterium*), it requires the counsel of the presbyteral council and possibly also of the college of consultors, who are chosen from the presbyteral council.

The Code does not say exactly how the council is to be established. M. Marchesi details three stages in its establishment. The first stage is for the bishop to issue a decree of convocation which establishes the times and methods of election in accordance with the law (both universal and particular as well as provisions for the particular case). The

second stage is the actual election pursuant to the methods pre-established in the decree of convocation or in an electoral regulations previously established and approved. Following the election, the names of those elected are published in the official document of the diocese. This is the stage where the bishop may also appoint other members, if he so wishes, as long as this is not contrary to the prescription of canon 497, 3°. Thereafter, the *ex officio* members are designated (c. 497, 2°). The final stage is when the bishop issues a decree of formal constitution, which is to contain the names of all the members (elected, appointed, and *ex officio*). It is at this stage that the presbyteral council comes into existence and begins its work.⁴⁶

While acknowledging that this method of establishing the presbyteral council is systematic and coherent with the law, we are of the opinion that, before issuing the decree of convocation or following the decree of convocation, a lecture or seminar should be held, at which the priests are informed about the nature and role of the presbyteral council in the governance of the diocese and their questions clarified. This information session, conducted by a canonist or by the bishop himself, should precede the election.

2.2.3 Membership of the Presbyteral Council

Canons 497 to 499 address various issues relating to the membership of the presbyteral council. These canons set forth some standard norms for all presbyteral councils while deferring to local statutes in some other respects. “These universal norms are consistent with the expectations of the role of the council: to be a representative body

⁴⁶ MARCHESI, “Council of Priests,” p. 1192. The statutes of the council which determine the method of election and other issues, should have been drafted and approved by the diocesan bishop before the first stage of this process.

of the presbyterate and to assist the diocesan bishop in his governance functions.”⁴⁷

Accordingly, canon 497 provides three means of becoming members of the council.

Canon 497. In what pertains to the designation of members of the presbyteral council:

1° the priests themselves are freely to elect about half, according to the norm of the following canons and of the statutes;

2° according to the norm of the statutes, some priests must be *ex officio* members, that is, members who are to belong to the council by reason of the office entrusted to them;

3° the diocesan bishop is freely entitled to appoint others.⁴⁸

The 1997 interdicasterial instruction *Ecclesiae de mysterio* adds: “[t]he norms of the Code with regard to the [presbyteral council] specifies those priests who can be its members. Because the [presbyteral council] is founded on the common participation of the bishop and his priests in the same priesthood and ministry, membership in it is reserved to priests alone.”⁴⁹

Marchesi comments on the significance of these three categories of membership. He says that “[t]he division of the members into three categories [...] is completely founded on valid reasons: with their appointments, the bishops complete the representation and plug some gaps produced by the results of the elections; the presence

⁴⁷ CUSACK, “Presbyteral Council,” p. 655.

⁴⁸ *CIC*, c. 497. “Ad designationem quod attinet sodalium consilii presbyteralis: 1° dimidia circiter pars libere eligatur a sacerdotibus ipsis, ad normam canonum qui sequuntur, necnon statutorum; 2° aliqui sacerdotes, ad normam statutorum, esse debent membra nata, qui scilicet ratione officii ipsis demandati ad consilium pertineant; 3° Episcopo dioecesano integrum est aliquos libere nominare.”

⁴⁹ CONGREGATION FOR THE CLERGY, Interdicasterial Instruction *Ecclesia de mysterio*, 15 August 1997, in *AAS*, 89 (1997), pp. 852-877; English translation in *Origins* 27 (1997-1998), no. 4, art. 5, p. 405 (= *EdM*).

of a holder of several important offices contributes to a greater balance of opinions and furnishes a greater competency.”⁵⁰ We shall now consider each of these categories.

2.2.3.1 Membership by Election

Canon 497, 1° makes it clear that election is the means through which about half of the members of this council are designated. It also states categorically that the priests themselves are the ones to freely elect these members. Canon 498 then provides the categories of priests who have the right to active and passive voice.

§1 The following have the right of election, both active and passive, in constituting a presbyteral council:

1° all secular priests incardinated in the diocese;

2° secular priests not incardinated in the diocese and priests who are members of some religious institute or society of apostolic life, who reside in the diocese and exercise some office for the good of the diocese.

§2 To the extent that the statutes provide for it, the same right of election can be conferred on other priests who have a domicile or quasi-domicile in the diocese.⁵¹

By universal law, those who have both the right to vote and to be elected to the council are priests who are incardinated in the diocese as well as religious priests or priests who belong to societies of apostolic life and other diocesan priests who are not incardinated in the diocese but who reside in the diocese and perform some pastoral work to its advantage. Two points need some explanation. First, the incardinated priests include not

⁵⁰ MARCHESI, “Council of Priests,” p. 1203.

⁵¹ *CIC*, c. 498, §1. “Ius electionis tum activum tum passivum ad consilium presbyterale constituendum habent: 1° omnes sacerdotes saeculares in dioecesi incardinati; 2° sacerdotes saeculares in dioecesi non incardinati, necnon sacerdotes sodales alicuius instituti religiosi aut societatis vitae apostolicae, qui in dioecesi commorantes, in eiusdem bonum aliquod officium exercent. §2 Quatenus statuta id provideant, idem ius electionis conferri potest aliis sacerdotibus, qui domicilium aut quasi-domicilium in dioecesi habent.” The complementary Norms of *Anglicanorum coetibus* adds that: “The presbyters, while constituting the presbyterate of the [Anglican] ordinariate, are eligible for membership in the presbyteral council of the diocese in which they exercise pastoral care of the faithful of the ordinariate.” See *CN*, art. 8, §1.

only those who are in active ministry but also those who are retired, whether they are residing in the diocese or outside the diocese.⁵² Secondly, to exercise some office for the good of the diocese does not necessarily mean that such an office has to be a diocesan office, but it may be a regional or national office; it suffices that the diocese benefits from it in one way or another.⁵³

There are a few exceptions such that a priest who is still incardinated in his diocese may not be allowed to exercise these electoral rights. This could happen in the case of a priest who, though not laicized, has left active ministry or, in another case, a priest who is absent from the diocese for a considerable period of time without authorization.⁵⁴ Even in such situations, the exercise of rights should never be denied arbitrarily. To avoid any abuse of discretionary authority, it would be appropriate for the statutes of the council to delineate carefully those ineligible to participate in the election process.⁵⁵

The reasons for which priests will not be allowed to exercise these electoral rights have to be serious since the universal law has set a procedure for designations, which ideally should not be changed in individual cases without a certain gravity; otherwise it will be arbitrary.⁵⁶ The interdicasterial Instruction *Ecclesiae de mysterio* comments on

⁵² CUSACK, "Presbyteral Council," p. 656.

⁵³ ARRIETA, "Particular Churches," p. 413.

⁵⁴ CUSACK, "Presbyteral Council," p. 656. See also J. ALESANDRO, "The Internal Ordering of Particular Churches," in *CLSA Comm1*, p. 403 (=ALESANDRO, "Internal Ordering of Particular Churches").

⁵⁵ CUSACK, "Presbyteral Council," p. 656.

⁵⁶ MARCHESI, "Council of Priests," p. 1202.

this limitation: “deacons, non-ordained members of the faithful (for example lay administrators of churches), even if collaborators with the sacred ministers, and those priests who have lost the clerical state or who have abandoned the sacred ministry do not have either an active or a passive voice in the [presbyteral council].”⁵⁷

Besides those to whom the universal law has given the right of active and passive voice, canon 498, §2 also makes reference to another category of priests to whom the particular statutes of the presbyteral council could give this right. These are priests who, although not incardinated and not exercising any office for the benefit of the diocese, simply have domicile or quasi-domicile in the diocese. Examples of these include priests who remain incardinated in their own dioceses but have a retirement home in the diocese where they now have domicile, or those priests who have established quasi-domicile by reason of a program of extended studies within the diocese.⁵⁸ It could also include priests of religious institutes and societies of apostolic life who live in the diocese but do not exercise some office, or duty (*officium*), for the good of the diocese.

Having established the criteria for electoral rights, the Code goes further in canon 499 to legislate on the manner of electing members: “The manner of electing members of the presbyteral council must be determined in the statutes in such a way that, insofar as possible, the priests of the *presbyterium* are represented, taking into account especially the different ministries and various regions of the diocese.”⁵⁹ This canon makes it clear

⁵⁷ *EdM*, no. 4, art. 5, p. 405.

⁵⁸ CUSACK, “Presbyteral Council,” p. 657.

⁵⁹ *CIC*, c. 499. “Modus eligendi membra consilii presbyteralis statutis determinandus est, ita quidem ut, quatenus id fieri possit, sacerdotes presbyterii repraesententur, ratione habita maxime diversorum ministeriorum variarumque dioecesis regionum.”

that one of the things that must be determined in the statutes of the council is the manner of electing members. Since the council is, by its nature, representative of the presbyterate, the canon points out two bases of representation which should be taken into consideration—ministry and geography. The canon does not limit representation to these two categories but points out that, whatever electoral procedure is adopted, it should aim at having a representative council. Since we shall treat this issue more thoroughly in chapter three, it suffices to say here that the grouping of priests that could yield such a representative council could vary from diocese to diocese depending on the specific situation of each diocese. Some categories or representatives commonly used in dioceses are: parish priests, assistants, chaplains, those in active ministry, those retired, diocesan priests, religious priests, those in other ministries.⁶⁰

2.2.3.2 Membership *ex officio*

The second means of becoming members of the presbyteral council according to canon 497, 2°, is by virtue of office. This second category is also called membership by law because it presupposes that the offices which are deputed as a basis for council membership are specified in the statutes of the council, which is particular law (*ius particulare*).

The bishop cannot dispense with *ex officio* members, precisely because the canon uses the phrase *esse debent*, not *esse possunt*, and this is a constitutive law (c. 86).⁶¹ The offices that could be the basis for the *ex officio* members may vary from one region to another depending on the criteria established by conference of bishops. Nevertheless,

⁶⁰ See SCC, Circular Letter on Presbyteral Councils, no. 6.

⁶¹ J.M. HUELS, “Categories of Indispensable and Dispensable Laws,” in *Studia Canonica*, 39 (2005), p. 41 (=HUELS, “Categories of Indispensable and Dispensable Laws”).

these offices could include those of the vicar general, rector of seminary⁶² and, as suggested by Arrieta, those of the episcopal vicars and chancellor.⁶³ In this category of membership, the collaborative role of the presbyteral council becomes even more obvious. Hence, since the role of the council is to foster good governance in the diocese, those who hold significant governance offices in the diocese such as the vicar general, the episcopal vicars and the moderator of the curia are usually designated as *ex officio* members.⁶⁴

2.2.3.3 Membership by Appointment

Appointment by the diocesan bishop is the third means by which members of this council may be designated. The bishop can freely appoint other priests to serve in the council. It is, however, not mandatory for him to do so. Nevertheless, if he strongly feels that there are some priests who can enhance the advisory role of this council and have not been designated through the first two means (by election and office), he uses this third means to designate them members of the council. In doing this, however, the bishop should ensure that the total number of *ex officio* and appointed members do not far exceed half of the total membership of the council. This episcopal appointment also helps to correct any shortcomings in achieving good representation since, by its nature, the council is a representative organ.⁶⁵

⁶² See SCC, Circular Letter on Presbyteral Councils, no. 7.

⁶³ ARRIETA, "Particular Churches," p. 412.

⁶⁴ CUSACK, "Presbyteral Council," p. 655.

⁶⁵ SCC, Circular Letter on Presbyteral Councils, no. 6.

2.2.4 Size of Membership

Unlike the college of consultors which, according to canon 502, §1, should not be less than six and not more than twelve members, the Code does not make such specific legislation with regard to the presbyteral council. However, since the members of the college of consultors are chosen from this council, it follows that the membership of this council could not be less than six either.⁶⁶ Membership of the council will usually vary from one diocese to another depending on the size of each diocese. It is recommended that the membership of the council should be moderate because, as an organization of governance, it will be less efficient if the membership is too high.⁶⁷ It is for the statutes to indicate the size of membership and the number of members determined by election, by office and by appointment.

2.2.5 Tenure of Membership

Canon 501, §1 focuses on the length of time that a member can serve on the council: “Members of the presbyteral council are to be designated for a time determined in the statutes, in such a way, however, that the entire council or some part of it is renewed within five years.”⁶⁸ This canon makes it explicit that the tenure of membership is one of the principal issues that the statutes should determine. This must be done in such a way that over a five-year period the council is renewed in whole or in part. We shall

⁶⁶ This point also rules out the possibility of validly establishing the college of consultors in dioceses that do not have presbyteral councils. This practice is no longer acceptable in the present legislation.

⁶⁷ MARCHESI, “Council of Priests,” p. 1201.

⁶⁸ *CIC*, c. 501, §1. “Membra consilii presbyteralis designentur ad tempus, in statutis determinatum, ita tamen ut integrum consilium vel aliqua eius pars intra quinquennium renovetur.”

discuss the implications of this in the next chapter. It suffices to say here that renewing this council in whole or in part over a period of five years gives room for fresh minds in the council and gives the opportunity to as many priests as possible to be involved at different times in the governance of the diocese.

2.2.6 Statutes

Canon 496 states: “The presbyteral council is to have its own statutes approved by the diocesan bishop, attentive to the norms issued by the conference of bishops.”⁶⁹ Canon 94, §1 defines statutes: “Statutes in the proper sense are ordinances which are established according to the norm of law in aggregates of persons or of things and which define their purpose, constitution, government and method of operation.”⁷⁰ While some argue that the sense in which the concept “statutes” is used with regard to the presbyteral council is not exactly the same as it is used in this canon, since canon 94 uses this term to refer to the governing documents of juridic persons, and the presbyteral council is not a juridic person;⁷¹ others are of the opinion that this canon is applicable since the canon does not mention “juridic persons” but mentions “aggregates of persons or of things” and there are aggregates of persons or things which are not juridic persons.⁷² Whatever the case, since

⁶⁹ *CIC*, c. 496. “Consilium presbyterale habeat propria statuta ab Episcopo dioecesano approbata, attentis normis ab Episcoporum conferentia prolatis.”

⁷⁰ *CIC*, c. 94, §1. “Statuta, sensu proprio, sunt ordinationes quae in universitatibus sive personarum sive rerum ad normam iuris conduntur, et quibus definiuntur earundem finis, constitutio, regimen atque agendi rationes.”

⁷¹ R. PAGÉ, *Les Églises particulières*, Montréal, Les Éditions Paulines, 1985, pp. 124-125 (=PAGÉ, *Les Églises particulières*).

⁷² See ALESANDRO, “Internal Ordering of Particular Churches,” p. 402; ARRIETA, “Particular Churches,” p. 411. Canon 115, §2 and 3 gives the definition of aggregates of person and of things.

canon 496 uses the term “statutes” to refer to this document, it suffices to say that the elements which characterize formal statutes as found in canon 94, §1 should equally be used to shape this governing or regulatory document of the council. Such elements, therefore, should include the purpose, constitution, governance and manner of acting of the presbyteral council.

While the Code does not stipulate whose duty it is to draft the statutes, we know that this responsibility does not reside with the council itself since, strictly speaking, the council does not exist until its statutes are established.⁷³ One of the ways to achieve this would be to set up a committee of knowledgeable priests to draft the initial statutes which, if necessary, could be reviewed by the council in union with the bishop when the council is officially constituted. Whatever procedure is used, the statutes only receive force when approved by the bishop. The bishop gives his approval either by issuing a decree to this effect (c. 48) or by indicating his approval on the official copy of the statutes. In either case, the document is notarized by the chancellor or another notary (c. 474). Before he signs the document, the bishop should ensure that the statutes are in conformity with the norms regarding the presbyteral council which have been laid down by the Code and the conference of bishops; this is necessary in order to achieve some level of uniformity in the pastoral governance of the region.

Although the contents of statutes usually differ from diocese to diocese depending on the particular circumstances of each diocese, there are certain elements which, according to the Code, must be determined by the statutes, including the manner of electing members (c. 497, 1°); priests who are *ex officio* members (c. 497, 2°); the rights

⁷³ CUSACK, “Presbyteral Council,” p. 654.

of active and passive voice of priests who have domicile or quasi-domicile in the diocese (c. 498, §2); the procedure for election (c. 499); and the term of office for council members (c. 501, §1).⁷⁴ The statutes of the presbyteral council are important in achieving the collaborative role of this council in diocesan governance and embodying its essential elements, such as the constitution, nature, purpose, power, duration, membership, meetings, and relationship with the other consultative bodies in the diocese.

2.3 Manner of Operation

Having discussed the concept, nature, role in governance, and composition of the presbyteral council, we shall now focus our attention on how the council is expected to function. In other words, we shall explore whose duty it is to convene the council, to preside over it, and set the agenda; we shall also explore the nature of issues or matters to be submitted to the council. Following this, we shall examine how the acts of the council are to be published and the possibility of having committees in the council.

2.3.1 Convocation and President of the Council

Canon 500, §1 states: “It is for the diocesan bishop to convoke the presbyteral council, preside over it, and determine the questions to be treated by it or receive proposals from the members.”⁷⁵ From our discussion on the nature of this council, we have made it clear that it is an advisory body to the bishop and is dependent on him. Based on this background, this canon makes it clear that it is the responsibility of the

⁷⁴ See J. RENKEN, “The Statutes of a Parish,” in *Studia canonica*, 44 (2010), p. 109.

⁷⁵ *CIC*, c. 500, §1. “Episcopi dioecesani est consilium presbyterale convocare, eidem praesidere atque quaestiones in eodem tractandas determinare aut a membris propositas recipere.”

bishop to convene this council. What if the bishop fails to convene this council and yet goes ahead to carry out some acts for which the law requires him to consult it first? What possible action can this council take? The Code does not provide any answer to this question.⁷⁶ Yet, it appears that, even in such situations, the council cannot convoke itself, nor can any other individual member convene it. This is based on the fact that this council which represents the presbyterium has its foundation in the one priesthood of Christ (*unum presbyterium*) and therefore is called to act always in union with the bishop who is the chief priest of the diocese.

The Code does not make provision for how often the bishop should convoke the council; this should be determined in the statutes after taking into consideration the norms of the conference of bishops regarding this matter. When this issue is determined in the statutes, it does not infringe on the bishop's right to convoke the council, since the statutes do not have juridic effects until they receive the bishop's approval. Such right is further reinforced when the statutes make it clear that the bishop could cancel meetings which may not be necessary as well as convene the council for additional meetings if there is a pressing need.⁷⁷

Since the Code does not address the issue regarding the manner of convoking the council, it may be worthwhile to determine this in the statutes. The manner of convoking the council should be done with seriousness in such a way that it portrays the important position of this council in the governance of the diocese.

⁷⁶ It is our hope that a future revision of the Code will answer this question.

⁷⁷ CUSACK, "Presbyteral Council," p. 658.

Besides convening this council, canon 500, §1 also ascribes to the bishop the responsibility of presiding over this council. On whether he needs to do this personally or through another, authors like R. Pagé and B.A Cusack seem to suggest that the bishop does not need to preside personally.⁷⁸ This, nevertheless, does not devalue or diminish the need for the bishop to preside personally. Cusack adds: “Given the role of the council and its relationship with him, the diocesan bishop should normally preside with other provisions available for exceptional cases.”⁷⁹

More recent documents seem to reinforce the need for the bishop to preside over the meetings of the council and chair the deliberations. The 2004 Directory for the Pastoral Ministry of Bishops, *Apostolorum successores*, for example, says the bishop alone is competent to preside over the council.⁸⁰ It goes further to reinforce why the bishop should personally chair the meetings: “He [the bishop] should avoid giving the impression that the council lacks purpose and should chair the meetings in such a way that all its members can freely express their opinions.”⁸¹

2.3.2 Agenda for the Meetings

Canon 500, §1 is fairly explicit on the issue of the agenda for meetings. It attributes to the bishop the responsibility of setting the agenda for meetings. However, since this council is constituted by the representatives of the various sectors of the

⁷⁸ See PAGÉ, *Les Églises particulières*, pp. 142-144. See also CUSACK, “Presbyteral Council,” p. 658.

⁷⁹ CUSACK, “Presbyteral Council,” p. 658.

⁸⁰ *AS*, no. 182.

⁸¹ *Ibid.*, p. 200.

diocese and since these representatives may be aware of some pastoral problems and issues in their various sectors or in the diocese at large which the bishop may not be aware of, the Code likewise allows the members to present proposals. These proposals have to receive the approval of the bishop before they are included in the agenda.

With regard to the issues for the agenda, section 2.5.3 contains those matters which the bishop must bring to this council. Aside from these matters, the bishop could also present to the council any other matter relating to the pastoral governance of the diocese for which he desires counsel. Accordingly, the 2004 Directory for the Pastoral Ministry of Bishops, number 189, calls on the bishop to involve the diocesan clergy, through the presbyteral council, in important financial decisions which he wishes to make. As we shall see in chapter three, some dioceses have agenda committees headed by the bishops, and these committees help in gathering items for the agenda.

2.3.3 The Acts of the Council

Although the bishop has the obligation to consult the council in more important matters and although it has the right to be consulted, the members of the council do not have the right to divulge the matters on which they have been consulted until the bishop makes such matters public,⁸² and this remains the case whether or not the bishop acts in accordance with the counsel that he has received from the council. By maintaining confidentiality, the integrity of the council is protected and bitterness and division can better be avoided.

The bishop is free to divulge the acts of the council either personally or through any other means or offices, for example, via the secretary, the chancellor, or the

⁸² ARRIETA, "Particular Churches," p. 414.

communication department of the diocese. It may be worthwhile for the statutes to determine how the acts of the council are to be made public and to indicate in view of the local situation in that particular diocese, those individuals, groups and offices who may lawfully be given the acts of the council (excluding those matters which are confidential). These may include the members of the council, members of the presbyterium, other members of institutes of consecrated life and societies of apostolic life, as well as other organs of a similar nature in the diocese such as the finance council, pastoral council and college of consultors.

2.3.4 Committees of the Council

The canons on the presbyteral council do not directly make mention of committees or commissions, but we know that these are some of the tools through which organizations realize their objectives or address some specific questions. Since the canons have permitted the presbyteral council to have its own statutes, it follows that these statutes, which establish norms that foster the realization of the objectives of the presbyteral council in the governance of the diocese, may establish such committees or commissions as tools through which these objectives could be realized. Commenting on the significance of these committees or commissions, the 2004 Directory for the Pastoral Ministry of Bishops says: “The council should draw up its own statutes, establishing norms concerning such matters as [...] the commissions that could be set up for addressing specific questions and the procedure to be followed at meetings.”⁸³

In some cases, the conferences of bishops have also mandated the establishment of certain committees or commissions. For example, the Canadian Conference of

⁸³ *AS*, no. 182, p. 200.

Catholic Bishops has decreed that the presbyteral council in each diocese is to have an executive committee, to be chaired by the diocesan bishop or his delegate.⁸⁴ The presbyteral council is therefore able to establish committees that will facilitate its collaborative role in the governance of the diocese.

2.4 The Dissolution of the Council

Canon 501, §§2 and 3 address the dissolution of the council:

§2 When a see is vacant, the presbyteral council ceases and the college of consultors fulfills its functions. Within a year of taking possession a bishop must establish the presbyteral council anew.

§3 If the presbyteral council does not fulfill the function entrusted to it for the good of the diocese or gravely abuses it, the diocesan bishop, after having consulted with the metropolitan, or, if it concerns the metropolitan see itself, with the suffragan bishop senior in promotion can dissolve it but must establish it anew within a year.⁸⁵

The canon reveals two ways of dissolving the presbyteral council. (1) When the see is vacant, it is dissolved by virtue of the law; this is based on the fact that this council is not able to act without the bishop. (2) It may be dissolved by the bishop; this is based on the fact that this council is established to promote the good, or pastoral welfare, of the diocese.

⁸⁴ See *CCLA*, p. 1660.

⁸⁵ *CIC*, c. 501, §2. “Vacante sede, consilium presbyterale cessat eiusque munera implentur a collegio consultorum; intra annum a capta possessione Episcopus debet consilium presbyterale noviter constituere.” §3. “Si consilium presbyterale munus sibi in bonum dioecesis commissum non adimpleat aut eodem graviter abutatur, Episcopus dioecesanus, facta consultatione cum Metropolita, aut si de ipsa sede metropolitana agatur cum Episcopo suffraganeo promotione antiquiore, illud dissolvere potest, sed intra annum debet noviter constituere.”

2.4.1 *A iure* Dissolution

Since the presbyteral council is not able to act without the diocesan bishop, when the see is vacant the council ceases to exist. During this period, the matters which the council usually handles are directed to the college of consultors. Nevertheless, since this council is a necessary organ in the governance of the diocese, the new bishop is obliged to reconstitute or reconvene it within a year of taking canonical possession of the diocese.⁸⁶

2.4.2 Dissolution by the Bishop

Another means by which this council could be dissolved is by the diocesan bishop himself. This, however, is only done under the most serious circumstances, that is, when this council fails to fulfill the function (*munus*) committed to it or gravely abuses the same.⁸⁷ Before the bishop can dissolve the council under these conditions, the Code obliges him to first consult with the Metropolitan and, in the case of the Metropolitan, to first consult with the most senior suffragan bishop, thus reducing the potential for an

⁸⁶ The Code makes it clear that when the see is vacant the functions of the presbyteral council are assumed by the college of consultors but it is silent on who's responsibility it is to perform these functions between the period when the new bishop takes canonical possession and when he reestablishes the presbyteral council. John Renken is of the opinion that after the new bishop has taken canonical possession, the college of consultors no longer substitute for the presbyteral council. He says in the same manner, when the presbyteral council has been dissolved by the diocesan bishop, no diocesan group assumes its tasks; in such situations, the bishop cannot perform validly acts which require his prior consultation with the presbyteral council. See J.A. RENKEN, *Particular Churches: Their Internal Ordering, Commentary on Canons 460-572*, Ottawa, Faculty of Canon Law, St. Paul University, 2011, pp. 137-138.

⁸⁷ The Code does not have further details on what it meant by the "*munus* committed to the council." In our view, it means the duties entrusted to the council whether by statute or by the mandate of the bishop. Commenting on what may constitute this serious dereliction of duty, CUSACK says, "Presumably obstinate refusal to assemble when convened by the bishop or a failure to address issues of major importance he presents to them would be grounds for the council's dissolution." See CUSACK, "Presbyteral Council," p. 660.

abuse of power. For such an act of dissolution to have juridical force in canon law, the bishop should issue a written decree, also observing canon 51 which requires that a decree should state the reasons, at least in a summary form; the decree should also be properly notarized (c. 474), with a copy sent to every member of the council (cf. c. 54).

2.5 The Presbyteral Council and Good Governance in the Diocese

J.H. Provost notes that “the diocesan bishop is not alone in the governance of a diocese; he is aided by various people who participate in diverse ways in governance activities.”⁸⁸ He goes further to name the presbyteral council as one of those consultative bodies which aid the bishop in the governance of the diocese.⁸⁹ Canon 495, §1 rightly attributes this responsibility to the presbyteral council: “[...] which assists the bishop in the governance of the diocese [...].” One may then ask why the Church has positioned the presbyteral council to give this aid to the bishop. This same canon goes further to answer this question: “[...] in order that the pastoral welfare of the portion of the people of God entrusted to him [the bishop] may be promoted as effectively as possible.” Simply put, the mission of the presbyteral council in the diocese is to foster good governance.

2.5.1 Good Governance

According to theologian Michael Fahey, “[a]uthority and governance in the Church is a form of shepherding undertaken by the bishop in imitation of the Good

⁸⁸ J.H. PROVOST, “Canonical Reflections on Selected Issues in Diocesan Governance” (=PROVOST, “Canonical Reflections on Selected Issues in Diocesan Governance”), in J.K. MALLETT (ed.), *The Ministry of Governance*, Washington, DC, CLSA, 1986, p. 223 (=MALLETT, *The Ministry of Governance*).

⁸⁹ *Ibid.*, p. 232.

Shepherd. Governance exists for service and is not a form of dominance.”⁹⁰ Good governance in the Church demands that the person who holds an office understand that authority in the Church belongs to Christ who has instituted the ministries. Theologian Agnes Cunningham says that “[a]ny exploration of or reflection on power and authority in the Church must begin with Jesus Christ. It is in him – his person, his life, his mission and ministry – that the foundations of the use of power and the exercise of authority in the Church are to be discerned.”⁹¹ *Lumen gentium* 7 states:

The head of this body is Christ. He is the image of the invisible God and in him all things came into being. He is before all creatures and in him all things hold together. He is the head of the body which is the Church. He is the beginning, the firstborn from the dead, that in all things he might hold the primacy (cf. Col. 1: 15-18). By the greatness of his power he rules heaven and earth, and with his all surpassing perfection and activity he fills the whole body with the riches of his glory (cf. Eph. 1:18-23).

Good governance requires also that those who rule acknowledge that, in the Church, Christ has instituted various offices and ministries and through the Holy Spirit continues to endow the members with various charisms (cf. 1 Cor. 12:1-11). Consequently, governance is only one aspect of this broad structure of ministries, offices and charisms. Fahey says that “all Christians, by reason of baptism, possess a basic equality in dignity and in responsibility for the Church’s mission. Leaders in the Church such as bishops must be attentive to the many charisms bestowed upon the faithful by the Spirit for the building up of the Church.”⁹² This is equally acknowledged by canons 204,

⁹⁰ M. FAHEY, “Diocesan Governance in Modern Catholic Theology and in the 1983 Code of Canon Law” (=FAHEY, “Diocesan Governance”), in MALLETT, *The Ministry of Governance*, p. 129.

⁹¹ A. CUNNINGHAM, “Power and Authority in the Church” (=CUNNINGHAM, “Power and Authority in the Church”), in MALLETT, *The Ministry of Governance*, p. 83.

⁹² FAHEY, “Diocesan Governance,” p. 128.

§1 and 208. This is why those who govern in the Church have the responsibility to acknowledge the other ministries, offices and charisms and promote them for the wellbeing of all.⁹³

The goal of governance in the Church must accord with the ultimate ends of the Church itself, especially the salvation of souls, the *suprema lex* (cf. c. 1752). This goal must be the driving force of those in positions of authority if they are to achieve good governance. J.H. Provost:

The salvation of souls is the supreme law of the Church. This is not only a literary device with which the legislator concluded the new Code (c. 1752, at the end); it reflects the very purpose of diocesan governance, which is ultimately spiritual. Effective governance requires constant vigilance to the spiritual dimension of being Church [...]. Hierarchical authority is a service, directed towards the spiritual welfare of God's people. This service of leadership implies the development of the personality of the leader, attention to the common good, and commitment to the spiritual goal for which the Church exists.⁹⁴

All the Christian faithful participate in the Church's mission (c. 204, §1; *AA*, 3). "To govern is to foster the common good; that is, to empower others to reach their potential, and thereby build up the Body of Christ."⁹⁵ Consequently, good governance requires collaboration between Church leaders and the faithful who share in the Church's mission.

⁹³According to Huels, "canon law should establish a church order that makes the community itself the priority, not officeholders. Canon law should provide structures which promote the sense of Church as a community of faith, hope, and love, and not only those which build up the institutions as such." J. HUELS, "The Role of Canon Law in Light of *Lumen Gentium*" (=HUELS, "The Role of Canon Law in Light of *Lumen Gentium*"), in MALLETT, *The Ministry of Governance*, p. 111.

⁹⁴ PROVOST, "Canonical Reflections on Selected Issues in Diocesan Governance," p. 249.

⁹⁵ *Ibid.*

2.5.2 Collaboration

“Collaboration” simply refers to the act of working together.⁹⁶ The term is used commonly in post-Vatican II Church documents,⁹⁷ as well as by canonists,⁹⁸ to describe the working relationship between the bishop and the presbyteral council in the governance of the diocese. *Lumen gentium* describes the Church as a communion (4, 9, 32, 48), which is a theological reality that coalesces nicely with the concept of collaboration. In his post-synodal apostolic exhortation, *Pastores gregis*, Pope John Paul II teaches:

The Church is an organically structured community which finds expression in the coordination of different charisms, ministries and services for the sake of attaining the common end, which is salvation. The bishop is responsible for bringing about this unity in diversity by promoting, as was stated in the Synodal Assembly, a collaborative effort which makes it possible for all to journey together along the common path of faith and mission.⁹⁹

The nature of the Church as communion, therefore, presupposes collaboration in governance.¹⁰⁰

⁹⁶ BOLANDER et al. (eds), *The New Lexicon Webster's Encyclopedic Dictionary*, p. 191.

⁹⁷ See *EdM*, pp. 397-409 (see in particular no. 4, art. 5, p. 405). See also JOHN PAUL II, Post-Synodal Apostolic Exhortation, *Pastores gregis*, 16 October 2003, in *AAS*, 96 (2004), pp. 825-924; English translation in *Origins*, 33 (2003-2004), pp. 353-392 (=PG); see in particular, no. 44, p. 376.

⁹⁸ See MARCHESI, “Council of Priests,” pp. 1196-1197, and 1202; also CUSACK, “Presbyteral Council,” p. 653.

⁹⁹ PG, no. 44, p. 376.

¹⁰⁰ For a better insight into the significance of the Church as communion and the place of collaboration in that Church, see J.A. RENKEN, “*Duc in Altum!*” *Communio: Source and Summit of Church Law*,” in *The Jurist*, 63 (2003), pp. 22-69; see also HUELS, “The Role of Canon Law in Light of *Lumen gentium*,” pp. 98-120.

Collaboration between the bishop and the presbyterate also finds a theological grounding in the nature of the priesthood itself. *Lumen gentium* teaches that there is one priesthood of Christ, which bishops and priests share.

Whilst not having the supreme degree of the pontifical office, and notwithstanding the fact that they depend on the bishops in the exercise of their own proper power, the priests are for all that associated with them by reason of their sacerdotal dignity; and in virtue of the sacrament of Orders, after the image of Christ, the supreme and eternal priest (Heb. 5:1-10; 7: 24; 9: 11-28), they are consecrated in order to preach the Gospel and shepherd the faithful as well as to celebrate divine worship as true priests of the New Testament. On the level of their own ministry sharing in the unique office of Christ, the mediator (1 Tim. 2:5), they announce to all the word of God (*Lumen gentium* 28).

Presbyterorum ordinis 7 sums up this teaching of *Lumen gentium* in a single statement:

“All priests share with the bishops the one identical priesthood and ministry of Christ.”

Vatican II, therefore, makes it clear that priests and bishops share the one priesthood of Christ, although in different degrees. Since bishops and priests also have a common mission, collaboration is necessary in the attainment of the Church’s mission. “It is the relationship between two parties sharing, though in different degrees, the same priesthood of Christ. It is the relationship of two participants in the same mission of the same Lord. It is a relationship that has God as its ultimate foundation.”¹⁰¹

Among the consultative bodies that are required in canon law, the Church has reckoned the presbyteral council as the pre-eminent structure for collaboration between the bishop and the presbyterium. In canon law, it is mandatory for the bishop to consult this body before taking certain decisions, and this consultation is required for the validity of the act placed by the bishop. We shall now proceed to enumerate when this collaboration requires counsel and when it requires consent.

¹⁰¹ R. GNIERI, *Bishop-Priest Relationship. Relation and Collaboration between Bishop and Diocesan Clergy in Their Pastoral Ministry according to Canon 384* (extractum), JCD diss., Rome, Pontificia Universitas Urbaniana, 1993, p. 21.

2.5.3 When the Law Requires Counsel

In an attempt to establish both the significance and the indispensable collaborative role of the presbyteral council in fostering good governance in the diocese, the 1983 Code, in conformity with the directives of the Second Vatican Council, specifies certain situations in which the diocesan bishop must seek the counsel, or advice, of the presbyteral council before acting. Literally, the bishop is required to hear (*audire*) the council. If the bishop does not hear the council, not only is his juridic act invalid (c. 127, §2), but it could also constitute an abuse of power (c. 1389). There are seven canons requiring the bishop to hear the presbyteral council, as follows.

- 1) A diocesan synod is to be celebrated in individual particular churches when circumstances suggest it in the judgment of the diocesan bishop after he has heard the presbyteral council (c. 461, §1).
- 2) It is only for the diocesan bishop to erect, suppress or alter parishes. He is neither to erect, suppress, nor alter notably parishes, unless he has heard the presbyteral council (c. 515, §2).
- 3) Although another person has performed a certain parochial function, that person is to put the offerings received from the Christian faithful on that occasion in the parochial account, unless in the case of voluntary offerings the contrary intention of the donor is certain. The diocesan bishop after having heard the presbyteral council, is competent to establish prescripts which provide for the allocation of these offerings and the remuneration of clerics fulfilling the same function (c. 531).
- 4) If the diocesan bishop judges it opportune after he has heard the presbyteral council, a pastoral council is to be established in each parish [...] (c. 536, §1).
- 5) The diocesan bishop is not to give consent [to build a church] unless, after having heard the presbyteral council and the rectors of the neighboring churches, he judges that the new church can serve the good of souls [...] (c. 1215, §2).
- 6) Where other grave causes suggest that a church no longer be used for divine worship, the diocesan bishop, after having heard the presbyteral council, can relegate it to profane but not sordid use, with the consent of those who legitimately claim rights for themselves in the church and provided that the good of souls suffers no detriment thereby (c. 1222, §2).
- 7) After the diocesan bishop has heard the finance council and the presbyteral council, he has the right to impose a moderate tax for the needs of the diocese

upon public juridic persons subject to his governance; this tax, is to be proportionate to their income (c. 1263).

Aside the above mentioned canons, there is yet another situation, noted above, which, though it does not require counsel or consent from this council, obliges the bishop to discuss the issue regarding the removal of a pastor, in accordance with canons 1740 and 1742, §1, with two pastors chosen from the group of pastors selected for this purpose by the presbyteral council from the list proposed by the bishop.

The above-mentioned situations reflect the various dimensions of the pastoral ministry of the diocesan bishop in which the presbyteral council is required to collaborate, especially the administration of ecclesiastical goods.¹⁰² In addition to these limited matters, it must be reiterated that the scope of consultation of the presbyteral council extends to every aspect of the pastoral governance of the diocese on which the diocesan bishop may freely seek the views of the members of the presbyteral council. For the sake of good governance and to make good decisions, the bishop should propose to the council any issues, especially “affairs of greater importance” (c. 500, §2), for which he can benefit from the additional insights, clarification, and wisdom of the presbyterium as represented on this council.

2.5.4 When the Law Requires Consent

Canon 500, §2 states that the bishop needs the consent of the presbyteral council “only in cases expressly defined by law.” The present Code does not have any such expressly defined cases. Nevertheless, since the canon speaks of *ius* and not *ius universale*, it means that the law in this context includes particular law or even the

¹⁰² J.A. RENKEN, *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada*, New York, St. Pauls, 2009, p. 106 (=RENKEN, *Church Property*).

statutes of the council. Hence, particular law may require that in some particular cases the bishop has to request the consent of this council before acting. As we mentioned earlier, the bishop can voluntarily request the consent of this council in some more important matters and even include such a provision in the statutes. Therefore, although presently the universal law does not require bishops to request consent from the presbyteral council before placing any act validly, the same law does not prevent bishops from voluntarily subjecting themselves to the consent of the presbyteral council. In our view, requesting consent from the presbyteral council in affairs of greater importance will foster the cooperation of the presbyterate in the affairs of the diocese and better assure transparency in administration. This in turn will foster good governance.

2.6 Comparison with other Diocesan Consultative Organs

The presbyteral council is only one of the consultative organs in the diocese. In this section, we shall explore briefly the relationship between this council and two similar consultative organs, the college of consultors and the pastoral council.

2.6.1 The College of Consultors

There is a close relationship between the presbyteral council and the college of consultors. By nature, these two councils are open exclusively to priests since they reflect the close bond between the bishop and the priests, sharing in the one priesthood of Christ and in the governance of the diocese. The presbyteral council could be considered the “nursery” for the college of consultors since the members of the college of consultors are necessarily chosen from the presbyteral council (c. 502, §1). These two councils are both necessary organs of consultation in a diocese with the exception of the situation

mentioned in canon 502, §3.¹⁰³ These two councils have similar objectives – the promotion of good governance in the diocese.¹⁰⁴ While the universal law does not require the bishop to request consent from the presbyteral council, it does require him to request consent from the college of consultors in a number of cases.¹⁰⁵ Strictly speaking, the presbyteral council, unlike the college of consultors, is not a college but a *coetus*. The presbyteral council ceases to exist when the see is vacant, yet not only does the college of consultors continue to exist but it also assumes the role of the presbyteral council during that period (c. 501, §2). Although one has to be a member of the presbyteral council to be validly appointed a member of the college of consultors, such a person can continue his term in the college of consultors even when his term has expired on the presbyteral council.¹⁰⁶

It is significant to mention that, while the presbyteral council is described as a kind of “senate” to the bishop, the college of consultors is not given this title.¹⁰⁷ Consequently, while the scope of the activities of the presbyteral council expands to every aspect of the pastoral ministry of the bishop, the functions of the college of

¹⁰³ Canon 502, §3 allows the conference of bishops to determine that the functions of the college of consultors be committed to the cathedral chapter.

¹⁰⁴ See c. 495, §1. See also READ, “Particular Churches and their Groupings,” p. 279.

¹⁰⁵ See *CIC*, cc. 1277, 1291, and 1295, which are considered acts of extraordinary administration. The diocesan administrator also needs the consent of the college; see cc. 272, 485, and 1018, §1, 2°.

¹⁰⁶ See PONTIFICAL COUNCIL FOR THE AUTHENTIC INTERPRETATION OF LEGISLATIVE TEXTS, *Responsa ad proposita dubia*, 11 July 1984, in *AAS*, 76 (1984), p. 747.

¹⁰⁷ CUSACK, “Presbyteral Council,” p. 661.

consultors are dictated by the universal law.¹⁰⁸ There is a practical aspect to this due, at times, for the need to obtain a consensual vote swiftly. This is more easily done with a small college of consultors than a large presbyteral council.¹⁰⁹

2.6.2 The Pastoral Council

Like the presbyteral council, the pastoral council is also a new institution in the Code that has its origin in the Second Vatican Council's decree *Christus Dominus*.¹¹⁰ It originates from the desire to have a council, in which the bishop presides, with the duty to study and ponder pastoral issues and draw up practical conclusions that would guide the bishop in his mission as pastor.¹¹¹ While it is obligatory for the bishop to establish the presbyteral council, he does not have the same obligation to establish the pastoral council; it is for the bishop to weigh the circumstances in his diocese and decide whether a pastoral council will be useful (see c. 511). While the pastoral council could advise the bishop on pastoral matters, it has no function of governance and does not possess strict

¹⁰⁸ See J. RENKEN, "The College of (Eparchial) Consultors: A Comparison of Latin and Eastern Law," in *Studia canonica*, 44 (2010), p. 487.

¹⁰⁹ In the light of this, Marchesi remarks: "The Commission for the reform of the *CIC* was concerned about the constitution of this organization [the college of consultors] because of the difficulty of convoking the council of priests in all cases, especially in the most urgent matters: a smaller group of persons allows for an easier consultation." MARCHESI, "Council of Priests," p. 1218.

¹¹⁰ *CD*, 27, p. 580. "It is highly desirable that in every diocese a special pastoral council be established, presided over by the diocesan bishop himself, in which clergy, religious, and laity specially chosen for the purpose will participate. It will be the function of this council to investigate and consider matters relating to pastoral activity and to formulate practical conclusions concerning them."

¹¹¹ F. LOZA, "The Pastoral Council (cc. 511-514)," in *Exegetical Comm*, vol. II, no. 2, p. 1242 (=LOZA, "The Pastoral Council").

competence.¹¹² For membership on the presbyteral council, one has to be a priest in order to be validly elected, designated or appointed; the basic requirement for becoming a member of the pastoral council is “full communion with the Catholic Church.”¹¹³ It is therefore open to clerics, members of the institutes of consecrated life and societies of apostolic life and especially the laity.

Unlike the presbyteral council, the bishop is free to use any method to designate the members of the council. The council, nevertheless, should reflect the various areas, social conditions, professions and apostolates in the diocese. It is left to the bishop to determine the size of membership of the pastoral council. Although the pastoral council is a consultative body (c. 514, §1), it is an optional consultative body, since nowhere in the Code is the bishop required to consult it for the validity of his act.¹¹⁴ Like the presbyteral council, the pastoral council ceases to exist when the diocese is vacant (c. 513, §2).

2.7 The Presbyteral Council in the 1990 Eastern Code

Canon 177 of the *Code of Canons of the Eastern Churches* describes an eparchy as a portion of the people of God entrusted to the pastoral care of the bishop, which he is to govern with the cooperation of the presbyterate, and the presbyteral council is a principal way by which the presbyterate participates in the governance of the eparchy.¹¹⁵

¹¹² Ibid., p. 1243.

¹¹³ B.A. CUSACK, “The Pastoral Council (cc. 511-514),” in *CLSA Comm2*, p. 669 (=CUSACK, “Pastoral Council”).

¹¹⁴ LOZA, “The Pastoral Council,” p. 1252. Despite this situation, there is no reason why particular law could not require such consultation for specific acts.

¹¹⁵ See M. BROGI, “The Norms on Eparchies and Bishops,” in J. CHIRAMEL and K. BHARANIKULANGARA (eds.), *The Code of Canons of the Eastern Churches: A Study and*

This description corresponds to that of a diocese in canon 369 of the Latin Code, a description which has its root in *Christus Dominus* 11. It is not surprising, therefore, that the canons on the presbyteral council in the 1990 *CCEO* (cc. 264-270) correspond almost exactly with the canons on the presbyteral council in the 1983 *CIC*.

2.7.1 Establishment and Role

Like canon 495, §1 of the 1983 Code, canon 264 of the 1990 Eastern Code makes the establishment of the presbyteral council obligatory for every eparchy.¹¹⁶ It also describes the presbyteral council as a body of priests which represents the presbyterate and assigns to the council the role of assisting the eparchial bishop by its advice, in accordance with the norms of law, with those things which regard the needs of pastoral work and the good of the eparchy. Commenting on the significance of this council, J.D. Faris says:

Not only is the eparchial bishop to establish a presbyteral council, but he is obliged to allow for its active function in the eparchy. The presbyteral council is not to be misconstrued simply as “an association of priests” for the purpose of fraternal support; rather it is assigned by the law a specific function to perform in the administration of the eparchy.¹¹⁷

Interpretation, Alwaye, St. Thomas Academy for Research, 1992, p. 116 (=BROGI, “The Norms on Eparchies and Bishops”).

¹¹⁶ *CCEO*, c. 264. “In eparchia constitui debet consilium presbyterale, scilicet coetus sacerdotum presbyterium repraesentans, qui Episcopum eparchialem suo consilio ad normam iuris adiuvet in eis, quae ad necessitates operis pastoralis et bonum eparchiae spectant.” All translations of the *CCEO* are from *Code of Canons of the Eastern Churches*, Latin-English Edition, New English Translation, prepared under the auspices of the CLSA, Washington, DC, CLSA, 2001.

¹¹⁷ J.D. FARIS, *The Eastern Catholic Churches: Constitution and Governance according to the Code of Canons of the Eastern Churches*, New York, Saint Maron Publications, 1992, p. 542 (=FARIS, *The Eastern Catholic Churches*).

2.7.2 Statutes

Like *CIC* canon 496, *CCEO* canon 265 also requires the presbyteral council to have its own statutes which must be approved by the eparchial bishop.¹¹⁸ Nevertheless, while *CIC* canon 496 says that, before approving the statutes, the bishop should take account of the norms laid down by the conference of bishops, *CCEO* canon 265 requires that the statutes conform to the provisions of common law and any particular law established by the competent legislative authority of the autonomous church.¹¹⁹

2.7.3 Membership

CCEO canon 266, which corresponds to *CIC* canon 497, recognizes three ways through which members of the presbyteral council could be designated.¹²⁰ The first is election by the priests themselves of an appropriate portion of the members according to the norm of the particular law of their autonomous church. J.D. Faris says that, in the absence of particular legislation on what is considered an “appropriate portion of the members,” the provision of *CIC* canon 497, 1°, which states that about half the members are to be elected, applies as the minimum which should be elected.¹²¹ The second way of

¹¹⁸ *CCEO*, c. 265. “Consilium presbyterale habeat propria statuta ab Episcopo eparchiali approbata firmis normis iuris communis et iuris particularis propriae Ecclesiae sui iuris.”

¹¹⁹ *Ibid.*, p. 543. This is significant as the *CCEO* acknowledges several autonomous churches with their unique particular laws.

¹²⁰ *CCEO*, c. 266. “Circa constitutionem consilii presbyteralis haec servantur: 1° congrua pars membrorum ad normam iuris particularis propriae Ecclesiae sui iuris eligatur a sacerdotibus ipsis; 2° aliquot sacerdotes ad normam statutorum esse debent membra nata, qui scilicet ratione officii sibi demandati ad consilium pertinent; 3° Episcopo eparchiali integrum est aliquot membra libere nominare.”

¹²¹ *Ibid.*, p. 545.

designating members according to this canon is by office (*ex officio*). Like the *CIC*, the third way is by the appointment of the eparchial bishop, if he considers it useful.

2.7.4 Right of Election

Like *CIC* canon 498, *CCEO* canon 267 focuses on the right of election. Accordingly, it assigns active and passive voice to all presbyters enrolled in the eparchy, as well as all priests who have domicile or quasi-domicile in the eparchy and exercise some function for the good of the eparchy.¹²² To the extent provided in the statutes, it says active and passive vote can also be conferred upon other priests who have domicile or quasi-domicile in the eparchy.

2.7.5 Method of Election

While the general norms regarding elections as contained in *CCEO* canons 947-960 are to be employed, canon 268 of the *CCEO*, like canon 499 of the 1983 Code, allows the statutes to determine other details regarding the election of council members.¹²³ Such a determination should ensure that the council is a true representation of the presbyterate, taking into account the different ministries and the various districts of the eparchy.

¹²² *CCEO*, c. 267, §1. “In eligendis membris consilii presbyteralis vocem activam et passivam habent: 1° omnes presbyteri eparchiae ascripti; 2° ceteri sacerdotes, qui in eparchia domicilium vel quasi-domicilium habent et simul in eiusdem eparchiae bonum aliquod munus exercent.” §2 “Quatenus in statutis providetur, vox activa et passiva conferri potest etiam aliis sacerdotibus, qui domicilium vel quasi-domicilium in eparchia habent.”

¹²³ *CCEO*, c. 268. “Modus eligendi membra consilii presbyteralis a statutis determinandus est ita, ut quatenus fieri potest, sacerdotes presbyterii repraesententur ratione habita praesertim diversorum ministeriorum variorumque eparchiae districtuum.”

2.7.6 Relationship to the Eparchial Bishop

Like the provision in canon 500 of the 1983 Code, *CCEO* canon 269, §1 attributes to the eparchial bishop the prerogative of convoking and presiding over the council.¹²⁴ It is also his competence to determine the questions to be treated by the council and receive proposals from members. *CCEO* canon 269, §2 goes on to state when the eparchial bishop is to consult the council or request its consent.

The eparchial bishop is to hear the presbyteral council in matters of greater importance, and in cases expressly determined by common law he must consult them; however, he needs its consent only in cases expressly determined by common law, without prejudice to the right of the patriarch regarding matters of the eparchy he governs to have only to consult the presbyteral council even in these cases.¹²⁵

In seven instances, the Eastern Code requires that the bishop consult the presbyteral council before he can act validly.¹²⁶ We mentioned earlier under section 2.5.3 that the Latin Code also requires the bishop to consult the presbyteral council in seven instances. While the number of items appear to be the same in both Codes (seven instances), the matters for which counsel should be requested are not exactly the same in the two Codes.

¹²⁴ *CCEO*, c. 269, §1. “Episcopi eparchialis est consilium presbyterale convocare, eidem praeesse atque quaestiones in eodem tractandas determinare aut a membris propositas accipere.”

¹²⁵ *CCEO*, c. 269, §2. “Episcopus eparchialis consilium presbyterale audiat in negotiis maioris momenti et in casibus iure communi expressis consulere debet; eius autem consensu eget solummodo in casibus iure communi expresse determinatis firmo iure Patriarchae circa negotia eparchiae, quam ipse regit, consilium presbyterale etiam in his casibus nonnisi consulendi.”

¹²⁶ The following are the matters delineated by the *CCEO* in which the eparchial bishop is to request the counsel of the presbyteral council before he can act: (1) convocation of an eparchial assembly (c. 236); (2) establishment, modification or suppression of protopresbyteral districts (c. 276, §2); (3) establishment of personal (in contrast to territorial) parishes (c. 280, §1); (4) establishment, modification, or suppression of a parish (c. 280, §2); (5) establishment of a parish in a church belonging to a religious institute or a society of the common life in the manner of religious (c. 282, §1); (6) establishing norms regarding offerings of the faithful given to the parish and clergy (c. 291); (7) conversion of a church building to secular use (c. 873, §2). In addition, the presbyteral council elects the two pastors with whom the bishop is obliged to consult prior to the removal of a pastor (c. 1391, §1).

There are four items in the Eastern Code which correspond exactly with those in the Latin Code: the consultation of the presbyteral council by the eparchial bishop before the convocation of an eparchial assembly (*CCEO* c. 236) which corresponds to canon 461, §1 of the Latin Code requesting the diocesan bishop to consult the presbyteral council before celebrating a diocesan synod; the consultation of the presbyteral council by the eparchial bishop before the establishment, modification or suppression of a parish (*CCEO* c. 280, §2) which corresponds to canon 515, §2 of the Latin Code, which says the bishop should not erect, suppress or notably alter parishes without hearing the presbyteral council; the consultation of the presbyteral council by the eparchial bishop before establishing regulations which provide for the allocation of the offerings of the faithful received on the occasion of pastoral function (*CCEO* c. 291) which corresponds to canon 531 of the Latin Code requiring the diocesan bishop to listen to the presbyteral council before issuing regulations which provide for the allocation of the offerings of the faithful received during pastoral function and the remuneration of clerics who fulfill the same function; the consultation of the presbyteral council by the eparchial bishop before the conversion of a church building to secular use (*CCEO* c. 873, §2) which corresponds to canon 1222, §2 of the Latin Code requiring the diocesan bishop to consult the presbyteral council before relegating a church to profane but not sordid use.

In contrast, the Eastern Code mentions additionally that the eparchial bishop should consult the presbyteral council before the establishment of personal parishes (*CCEO* c. 280, §1) and before establishing a parish in a church belonging to a religious institute or a society of common life in the manner of religious (*CCEO* c. 282, §1). These appear to be presumed in the Latin Code which simply require the diocesan bishop to

consult the council before establishing parishes. Another noticeable difference is found in (*CCEO* c. 276, §2) which requires the eparchial bishop to consult this council before the establishment, modification or suppression of protopresbyteral districts; this is not required in the canons of the Latin Code on the vicariate forane (cc. 553-555). A few other instances are mentioned in the Latin Code, in which the diocesan bishop is to consult the presbyteral council, these are not included in the Eastern Code. These are: before mandating a pastoral council in each parish (*CIC* c. 536, §1), before erecting a new church building (*CIC* c. 1215, §2) and before imposing the ordinary and extraordinary diocesan tax (*CIC* c. 1263). These are not completely ignored in the Eastern Code but are regulated by the common or particular law of the autonomous Church *sui iuris*. Accordingly, *CCEO* canon 295 concerns the regulations of pastoral and economic councils in parishes; *CCEO* canon 870 concerns new church buildings and *CCEO* canon 1012, §2 concerns the imposition of taxes.

CCEO canon 269, §3 concludes that the council can never act without the eparchial bishop whose responsibility it is also to divulge those things decided in the council.¹²⁷ This corresponds exactly to canon 500, §3 of the Latin Code.

2.7.7 Term of Office and the Dissolution of the Council

The provisions regarding the term of office and the dissolution of the council in *CCEO* canon 270 are exactly the same as those in canon 501 of the 1983 Code.¹²⁸

¹²⁷ *CCEO*, c. 269, §3. “Consilium presbyterale numquam agere potest sine Episcopo eparchiali ad quem solum etiam cura spectat ea divulgandi, quae in ipso consilio gesta sunt.”

¹²⁸ *CCEO*, c. 270, §1. “Membra consilii presbyteralis designentur ad tempus in statutis determinandum ita tamen, ut integrum consilium vel aliqua eius pars intra quinquennium renovetur.” §2. “Sede eparchiali vacante consilium presbyterale cessat eiusque munera implentur a collegio consultorum eparchialium; intra annum a capta possessione canonica eparchiae

Accordingly, the term of office is to be determined by the statutes in such a manner that, within a five-year period, the council is renewed in whole or in part.

The council is dissolved *ipso iure* when the see is vacant. It may be dissolved by the bishop (after the prescribed consultation) when it fails to fulfill its function or gravely abuses its power. Nevertheless, the bishop is obliged to re-establish the council within one year.

It is obvious from the above that the presbyteral council primarily plays the same role in the Latin Church and in the Eastern Churches *sui iuris*. Only few noticeable differences are found: the first appears in *CCEO* canon 266, 1° which says, “an appropriate portion of the members are to be elected by the priests themselves [...]” On the other hand, the corresponding *CIC* canon 497, 1° says categorically that “the priests themselves are freely to elect about half [...]” The second principal difference appears in *CCEO* canon 269, §2 which indicates that common law could oblige the eparchial bishop in some determined cases to request consent from the presbyteral council. The third has to do with the differences in the matters for which the bishops are obliged to request counsel from the presbyteral council as mentioned earlier in our review of both Codes.

2.8 Other Juridical Texts of the Holy See after the 1983 Code

Since the promulgation of the 1983 Code, a number of ecclesiastical documents from the Holy See have made reference to the uniqueness of the presbyteral council and the significance of the collaborative role of this council in the governance of a diocese. In

computandum Episcopus eparchialis debet novum consilium presbyterale constituere.” §3. “Si consilium presbyterale munus sibi in bonum eparchiae commissum non implet aut eodem graviter abutitur, Episcopus eparchialis consulto Metropolita aut, si de ipsa sede metropolitana agitur, consulto Episcopo eparchiali ordinatione episcopali seniore eidem Metropolitae subiecto illud dissolvere potest, sed intra annum novum consilium presbyterale constituere debet.”

this section, we shall consider the documents of greater importance: *Ecclesiae de mysterio* of 1997, *Pastores gregis* of 2003 and *Apostolorum successores* of 2004.

2.8.1 *Ecclesiae de mysterio* (1997)

This 1997 interdicasterial instruction, *Ecclesiae de mysterio*, makes allusion to the positive results obtained through the structures of collaboration in the particular Church that the Second Vatican Council called for and considered necessary for ecclesial renewal.¹²⁹ The instruction notes that these structures reflect the nature of the Church as communion, and it names the presbyteral council as the first among these structures. It emphasizes that the unique role of the presbyteral council is based on the fact that “the [presbyteral council] is founded on the common participation of the bishop and his priests in the same priesthood and ministry,”¹³⁰ and this explains why membership is reserved exclusively to priests. Hence, the instruction affirms that deacons, non-ordained members of the faithful, and priests who have lost the clerical state or have abandoned the sacred ministry do not have active or passive voice in the council.¹³¹

2.8.2 *Pastores gregis* (2003)

The 2003 post-synodal apostolic exhortation of Pope John Paul II, *Pastores gregis*, describes the Church as an organically structured community with various charisms, ministries, and services that aim at attaining a common end, which is

¹²⁹ *EdM*, no. 4, art. 5.

¹³⁰ *Ibid.*, p. 405.

¹³¹ *Ibid.*

salvation.¹³² It then assigns to the bishop the responsibility of bringing together this unity in diversity by promoting a “collaborative effort.” Accordingly, it states that the bishop is required to adopt a pastoral style which is ever more open to collaboration.

There is a type of reciprocal interplay between what a bishop is called to decide with personal responsibility for the good of the Church entrusted to his care and the contribution that the faithful can offer him through consultative bodies such as the diocesan synod, the presbyteral council, the episcopal council and the pastoral council.¹³³

The pope concludes this subject by heartily endorsing the development of structures of communion and participation in the diocese.¹³⁴

2.8.3 *Apostolorum successores* (2004)

The 2004 Directory for the Pastoral Ministry of Bishops, *Apostolorum successores*, issued by the Congregation for Bishops, is a great resource on the collaborative role of the presbyteral council in the governance of a diocese. This directory is particularly significant in that it uses the prescribed norms of the 1983 Code on the presbyteral council to broaden the pastoral scope of both the consultative and collaborative role of the presbyteral council in diocesan governance.

¹³² *PG*, no. 44.

¹³³ *Ibid.*, p. 376.

¹³⁴ *Ibid.* The pope states: “If communion expresses the Church’s essence, then it is normal that the spirituality of communion will tend to manifest itself in both the personal and community spheres, awakening ever new forms of participation and shared responsibility in the faithful of every category. Consequently, the bishop will make every effort to develop, within his particular Church, structures of communion and participation which make it possible to listen to the Spirit who lives and speaks in the faithful, in order to guide them in carrying out whatever the same Spirit suggests for the true good of the Church.”

2.8.3.1 Enriched Content of the Document

Like the previous documents, the section on the presbyteral council of the Directory starts by emphasizing the theological basis, representative nature, and function of this council. It repeats canon 495, §1 with an introduction establishing its theological basis in the communion between the bishop and the priests as well as the unity of the ministerial priesthood and the Church's mission.

The hierarchical communion between the Bishop and the presbyterate, founded on the unity of the ministerial priesthood and of the ecclesial mission, manifests itself institutionally in the presbyteral council, insofar as it is "a group of priests which, representing the *presbyterium*, is to be like a *senate of the Bishop*, and which assists the Bishop in the governance of the diocese according to the norms of law to promote as much as possible the pastoral good of the portion of the people of God entrusted to him."¹³⁵

The Directory re-echoes the significance of the presbyteral council, saying that not only does it facilitate dialogue between the bishop and the presbyterate, but it also serves to foster fraternity between the different groups of clergy in the diocese. In this light, the document reemphasizes that this council is mandatory in every diocese.

The council is firmly rooted in the concrete reality of the presbyterate and in the particular ecclesial mission that falls to priests as principal co-workers of the order of Bishops. The council is therefore "*diocesan*" by nature. It is mandatory to establish one in each diocese, and the *priestly state* is a requisite both for membership and for participation in the election of its members.¹³⁶

Conscious of the need to remove ambiguity, the Directory brings out clearly the power of the diocesan bishop in relation to the council. "The presbyteral council must never act without the knowledge of the Bishop, who alone is competent to convoke the

¹³⁵ *AS*, no. 182, p. 198.

¹³⁶ *Ibid.*

council, preside over it, determine the questions to be treated by it and make public the content of the discussions and any decisions taken.”¹³⁷

The document reemphasizes that, by its nature, the council is consultative and is called to assist the bishop regarding the governance of the diocese. This is why the bishop is free to make the final decision after obtaining the opinion of the council, except when universal law or particular law requires the consent of the council on certain questions. Nevertheless, the Directory adds a clause, in accordance with canon 127, §2, 2°, which morally limits the power of the bishop to act contrary to the unanimous opinions of the councilors without a serious and overriding reason.¹³⁸ The Directory goes on to enumerate some of the values that the diocese could derive from the collaborative role of this council in diocesan governance.

Even though it is *consultative* in nature, the council is called to assist the Bishop regarding the governance of the diocese. It also provides a suitable forum for developing an overall perspective on the situation of the diocese, for discerning the promptings of the Holy Spirit as expressed through people or groups, for exchanging ideas and experiences and for determining clear objectives for the exercise of various diocesan ministries, proposing priorities and suggesting methods.¹³⁹

On the representative nature of the council, the document states: “The composition of the council should reflect an *adequate representation* of the priests serving in the diocese, taking account of the diversity of ministries and regions, in such a way as to reflect the number of priests and the pastoral importance of each area of the

¹³⁷ Ibid., p. 199.

¹³⁸ “However the bishop should not act contrary to the unanimous opinion of his councilors without a serious and overriding reason, which he must weigh carefully according to his prudent judgement.” Ibid.

¹³⁹ Ibid.

diocese.”¹⁴⁰ Nevertheless, it adds a clause, new to the *ius vigens*, suggesting that for a diocese with very small number of priests, all of them could be summoned such that an assembly of the presbyterate would take the place of the formal presbyteral council.¹⁴¹

Elaborating on canon 496, the Directory says that the council should draw up its own statutes and enumerate some of the things to which attention should be given in the statutes: “[t]he council should draw up its own *statutes* establishing norms concerning such matters as its composition, the election of its members, the principal matters to be submitted for study, the frequency of meetings, internal offices (e.g. moderator, secretary), the commission that could be set up for addressing specific questions and the procedure to be followed at meetings.”¹⁴² The proposed statutes should be presented to the bishop for approval, and he should ensure that the norms conform to the prescriptions of the Code and those of the conference of bishops. The document adds yet another new clause which says that, before granting his approval, the bishop “should also consider whether the structure proposed is appropriate for a consultative body, and whether it succeeds in avoiding any organizational complexities that could detract from its clarity.”¹⁴³

¹⁴⁰ Ibid., pp. 199-200.

¹⁴¹ Ibid., p. 200. This point must be understood as an exception to the rule. It should not be interpreted as an excuse not to have the presbyteral council because the presbyteral council is mandatory for every diocese. Rather, it should be interpreted to mean that, no matter the condition of the diocese, the diocesan bishop should not be without this consultative body. So, even if the number of priests in the diocese is too small to have a presbyteral council separate from the general assembly of priests, this assembly should incorporate the juridical responsibility of the presbyteral council.

¹⁴² Ibid.

¹⁴³ Ibid.

The ultimate goal of the presbyteral council should be the good of the diocese. The bishop should create an enabling atmosphere through which this goal can be achieved by avoiding “any narrow individualism.”

Ever disposed to serene dialogue and attentive listening to what the members of the council have to say, the Bishop will encourage the priests to adopt constructive, responsible and far sighted positions, having at heart only the good of the diocese. Rising above any narrow individualism, the diocesan Bishop will seek to promote within the council a climate of communion, attentiveness and a common search for the best solutions. He should avoid giving the impression that the council lacks purpose and should chair the meeting in such a way that all its members can freely express their opinions.¹⁴⁴

In accordance with canon 501, §3, the bishop has the power to dissolve the council “[i]f the presbyteral council does not fulfil the function entrusted to it for the good of the diocese or gravely abuses it.”¹⁴⁵ In such a case, however, the bishop must establish it anew within a year. The document concludes its discussion on the relationship between the presbyteral council and the bishop with a remark on the status of the council when the See is vacant. “When a diocese is vacant, the presbyteral council ceases and the college of consultors assumes its functions. The new Bishop must re-constitute the council within one year of taking possession of the diocese.”¹⁴⁶

2.8.3.2 New Areas of Pastoral Collaboration in the Document

As a pastoral document, *Apostolorum successores* explores some new areas in which the presbyteral council could collaborate with the bishop in shepherding the people of God in the diocese. These are the administration of goods, the suspension or

¹⁴⁴ Ibid.

¹⁴⁵ Ibid., p. 201.

¹⁴⁶ Ibid.

dissolution of the diocesan synod, preaching and the establishment of common statutes for vicariates forane or deaneries.

Administration of goods. The Directory names “participation” as one of the basic criteria in the administration of diocesan goods. It says that “[t]he Bishop should involve the diocesan clergy, through the presbyteral council, in the important financial decisions that he wishes to make, and he should seek their opinion in such matters.”¹⁴⁷ This point is quite significant, as it seems to imply that, aside from the financial situations mentioned in canons 531 and 1263, in which the bishop is required by universal law to consult this council, he should also consult it on other important financial decisions that he wishes to make.

The diocesan synod. Number 171 of the Directory, acknowledges the right of the diocesan bishop to convoke a diocesan synod, in accordance with canon 461, §1, after consulting the presbyteral council. It also acknowledges that it is the bishop’s duty to suspend or dissolve the diocesan synod, should grave doctrinal, disciplinary, or social reasons intervene which, in his judgment, disturb the peaceful course of the synodal discussions in accordance with canon 468, §1. Nevertheless, the document brings in a pastoral dimension, emphasizing that “[b]efore promulgating the decree of suspension or dissolution, the Bishop would do well to seek the opinion of the presbyteral council, even though he remains free to make whatever decision he thinks best.”¹⁴⁸ This, in our opinion, is meant to prevent the situation wherein the bishop could make some hasty and arbitrary decisions which in the long run would not be for the good of the diocese.

¹⁴⁷ Ibid., no. 189, p. 207.

¹⁴⁸ Ibid., no. 171, p. 187.

Preaching. Chapter five of the Directory focuses on the teaching office of the bishop (*munus docendi*). One of the ways through which the bishop exercises this teaching office is through preaching. Number 122 of the Directory, names the issuing of pastoral letters as one of the forms of preaching. It calls on the bishops to propose doctrine by means of pastoral letters and messages addressed to the whole Christian community on some special occasions in the life of the diocese. To assist him in doing this and to make such letters effective, the document states that “the Bishop may wish to enlist the help of his advisers, of the presbyteral council and, if the case so warrants, of the diocesan pastoral council. These groups may suggest topics to be treated, present-day objections to be refuted, or they may point out issues arising in the diocese on which it is appropriate for the Bishop to speak authoritatively.”¹⁴⁹

Vicariates forane. The focus of number 217 of the Directory, is on vicariates forane, or deaneries. It says several neighbouring parishes can be joined together as vicariates forane, deaneries, pastoral regions or prefectures in order to foster pastoral care through common activity in accordance with canon 374, §2. The document adds that “[it] is helpful to draw up common statutes for deaneries, to be approved by the bishop after consulting the presbyteral council.”¹⁵⁰

Conclusion

The 1983 Code and subsequent juridical texts manifest the importance, and even necessity, of collaborative governance at the diocesan level. This is certainly the case

¹⁴⁹ Ibid., no. 122, p. 137.

¹⁵⁰ Ibid., no. 217, pp. 246-247.

with respect to the institute of the presbyteral council, as seen from this chapter's review and explanation of the pertinent norms on presbyteral councils found in the 1983 Code and juridical texts issued by the Holy See thereafter.

The 1983 Code is the foundational juridical text on presbyteral councils for the Latin Church. Canon 495, §1 makes the establishment of the presbyteral council mandatory for every diocese and assigns to this council the role of assisting the diocesan bishop in the governance of the diocese. Canon 497 details the manner of designating council members and gives the power to the presbyterate to freely elect about half of the council members. Canon 498 makes it possible for priests to collaborate in this endeavor, both diocesan priests and priest members of institutes of consecrated life and societies of apostolic life. Additionally, and of great importance to the effective collaboration between the bishop and the presbyterium, various canons oblige the diocesan bishop to consult this council before validly carrying out certain administrative acts (section 2.5.3 above). The 1990 Code of Canons of the Eastern Churches takes virtually the same approach. In addition, several post-1983 ecclesiastical documents of the Holy See have taken steps to broaden the consultative role of this council in the exercise of the pastoral office of the diocesan bishop. Most notably, the 2004 Directory for the Pastoral Ministry of Bishops, by developing further the *ius vigens* on the presbyteral council and enhancing its role in the governance of the diocese, makes a significant contribution to the call of the fathers at Vatican II for a Church order that provides structured opportunities for greater collaboration within the diocese.

Although some questions remain unanswered in the law, we must acknowledge that all these norms of the universal *ius vigens*, taken together, provide a solid foundation

for every diocese to establish a structure that is open to effective collaboration and to develop even further the collaborative role of the presbyteral council in diocesan governance. In the following chapter, we shall see to what extent this goal has been realized in the particular laws of a number of North American archdioceses.

CHAPTER THREE

THE COLLABORATIVE ROLE OF THE PRESBYTERAL COUNCIL FROM A PARTICULAR LAW PERSPECTIVE

Introduction

In the first chapter of this thesis, an attempt was made to show that, from the earliest period of the Church, decision making in church governance has always been, for most part, collegial, that is, a product of shared ideas, consultation and counseling. In the second chapter an attempt was made to show how the presbyteral council which is a product of the Second Vatican Council and whose role is to assist the diocesan bishop in the governance of the diocese through counsel, is expected in accordance with the Code to carry out this advisory role. Hence we discussed the nature, the scope, modes of operation and the limits of the presbyteral council according to the 1983 Code of Canon Law.

To further define and clarify these different aspects of the presbyteral council and give them the necessary bearing within each diocese, canon 496 says that each council should have its own statutes. Hence, our focus in this chapter is to show how the various statutes of North American archdioceses foster the collaboration of the presbyteral council in the governance of these archdioceses in accordance with the provisions of the Code.

In view of the above, statutes were requested from fifty archdioceses across the United States and Canada. In response to this request, statutes and other related documents were received from thirty-one of these archdioceses. These statutes and other related documents reveal, first, the level of awareness of the collaborative role of the

council in the statutes; second, the conformity of the statutes with the Code and particular laws; and, third, the manner in which the statutes promote collaboration.

3.1 Collaborative Role of the Council in the Statutes

If the presbyteral council is going to be relevant in the promotion of good governance in a particular diocese, then the diocese must first and foremost be aware of its collaborative role and be willing to promote such awareness among the priests. Hence, in this section, we shall examine the extent to which the statutes from thirty-one North American archdioceses manifest an awareness of the collaborative role of the presbyteral council.

3.1.1 Awareness of Collaborative Role as Suggested by the Number of Responses

In May 2010, letters were sent to fifty archdioceses across the United States and Canada requesting copies of the statutes of their presbyteral councils.¹ In response, we received replies from thirty-one of these archdioceses. Of these thirty-one, twenty-nine actually sent copies of their statutes; two others wrote to say they had not yet written their statutes, and there was no response from the other nineteen. In our opinion, this response, and the lack of it, may well be an indication of the level of awareness of the significance of the presbyteral council in these archdioceses. Those that sent statutes, or were at least aware that they needed to have them, may in general indicate a greater appreciation for the role of the presbyteral council than in archdioceses that ignored the request.

¹ Only archdioceses were included in order to have a manageable sampling.

Archdioceses in Survey

	Statutes or Letters Received
United States	19
Canada	12
Total	31

United States

1. Archdiocese of Anchorage
2. Archdiocese of Baltimore
3. Archdiocese of Boston
4. Archdiocese of Chicago
5. Archdiocese of Cincinnati
6. Archdiocese of Denver
7. Archdiocese of Galveston-Houston
8. Archdiocese of Hartford
9. Archdiocese of Kansas City
10. Archdiocese of Los Angeles
11. Archdiocese of Miami
12. Archdiocese of Newark
13. Archdiocese of New Orleans
14. Archdiocese of New York
15. Archdiocese of Oklahoma City
16. Archdiocese of Omaha
17. Archdiocese of Philadelphia
18. Archdiocese of Seattle
19. Archdiocese of St. Louis

Canada

1. Archdiocese of Gatineau-Hull
2. Archdiocese of Grouard-McLennan
3. Archdiocese of Halifax
4. Archdiocese of Montreal
5. Archdiocese of Ottawa
6. Archdiocese of Quebec
7. Archdiocese of Regina
8. Archdiocese of Rimouski
9. Archdiocese of St. John's
10. Archdiocese of Toronto
11. Archdiocese of Vancouver
12. Archdiocese of Winnipeg

3.1.2 The Collaborative Role of the Council Evidenced in Preambles to Statutes

The preambles of most of the statutes set the tone which awakens the reader to the importance of collaboration between the presbyteral council and the diocesan bishop in the pastoral governance of the diocese. Most of them create the awareness of the Church as communion in which the bishop and the priests share in the same priesthood and are called to the same purpose: to proclaim the kingdom of God and to build up the body of Christ.² This approach ultimately makes dialogue, cooperation and collaboration necessary. Accordingly, the statutes of the Archdiocese of Halifax, for example, state:

In the Council of Priests, the Archbishop will gather his priests around him, listen to them, consult them, and have dialogue with them on those matters which pertain to the needs of pastoral work and the good of the diocese. They will work together in every way for it is one family indeed, one body that is seeking by close interaction to further the cause of Christ living in His Church.³

The archdiocese of Hartford, in its preamble, also brings out clearly the significance of this collaborative role.

The Presbyteral Council and each of its members, whether elected or appointed by the Archbishop, represents the entire presbyterate of the Archdiocese. The Presbyteral Council is established according to the provisions of the revised Code of Canon law to assist the Archbishop of Hartford in the pastoral governance of the local Church of Hartford. Its area of competence is the life and well-being of the people of God among us, laity, religious, and clergy. Its role is consultative. It provides an apt forum for mutual, open reflection and fraternal dialogue between the Archbishop and the priests of the Archdiocese as they seek together to exercise their common ministry to build up the Body of Christ.⁴

A few statutes, do not have any preamble and have not made much effort in the other sections of their statutes to awaken in the council members the spirit of collaboration;

² This is the notion of the Church which flows from the Second Vatican Council into the 1983 Code of Canon Law as developed in Chapter One.

³ ARCHDIOCESE OF HALIFAX, “Constitution of the Council of Priests of Halifax” (= ARCHDIOCESE OF HALIFAX, “Statutes”), p. 1.

⁴ ARCHDIOCESE OF HARTFORD, “Statutes of the Presbyteral Council,” 2004 (= ARCHDIOCESE OF HARTFORD, “Statutes”), p. 1.

even in their statements on the purpose of the council, they have simply repeated almost verbatim canon 495, §1. This confirms an earlier study by J.H. Provost in which he remarked, “[i]n a few cases, the documents seem to betray a sense of distrust of the bishop, or of the members. They lack the tone of collaboration and mutual support which the document of Vatican II attempt to set in the Church.”⁵ A sense of distrust is exemplified when statutes place undue emphasis on respect for the authority of the bishop and invite council members to stand by their bishop in obedience. We consider this an undue emphasis on loyalty and obedience which could lead to the situation whereby members simply endorse the views of the bishop without critically evaluating those views. This is all the more the case in that every priest has already pledged respect and obedience to his bishop at ordination and does not need to be told this again as he assumes his advisory role in the presbyteral council.

3.1.3 Collaborative Role of Council Evidenced in the Declaration of Purpose

One of the things that should be defined in statutes according to canon 94, §1 is the purpose of the particular aggregate of persons or things. In declaring the purpose of the council, some of the statutes simply repeat canon 495, §1. Commenting on this kind of approach, J.H. Provost says, “[t]he content of the statutes is sometimes merely a direct quotation from the canons, with little adaptation to the local situation.”⁶ Notwithstanding this situation, a good percentage of the statutes we analyzed go further to itemize the purpose of the council, thereby creating a more concrete awareness of the collaborative

⁵ J.H. PROVOST, “Presbyteral Councils and Colleges of Consultors: Current Law and Some Diocesan Statutes,” in *CLSAP*, 49 (1987), p. 208 (=PROVOST, “Presbyteral Councils and Colleges of Consultors”).

⁶ *Ibid.*

role of the council in the governance of a diocese. Some purposes appearing in over eighty percent of the statutes include the following:

- To aid and advise the diocesan bishop in the governance of the diocese according to the norms of law so that the pastoral welfare of the people of God entrusted to the bishop may be most effectively achieved.
- To provide a forum for the full and free discussion of all issues of pastoral concern in the diocese and by so doing promote communication, cooperation and collaboration.
- To search for and propose ways and means for more effective pastoral ministry among the people of God.
- To be representative of the unity and diversity of the priests of the diocese.
- To foster whatever is appropriate for effective priestly life and ministry.

Overall, the statutes manifest a good level of awareness of the collaborative role of the presbyteral council in diocesan governance. While this does not necessarily translate into effective collaboration in actual practice, this awareness is the necessary starting point if it is to be a goal worth striving for. Where statutes do not yet exist, or where they do not reflect the importance of the collaborative role of the presbyteral council with the diocesan bishop, it is our strong opinion that these omissions need to be rectified.

3.2 Conformity of Statutes with the Code and Particular Laws

One of the reasons why archdioceses in North America were chosen for this survey and analysis of statutes is their longer history of organization, in comparison with Churches more recently evangelized. We believe that this would result in a good level of conformity of the statutes with the Code and particular law, especially the norms of the conference of bishops. In turn, this conformity between statutes and other pertinent laws

would bring out the pastoral and other positive values of the presbyteral council in the governance of a diocese.

3.2.1 As Representative of the *Presbyterium*

In accordance with canon 495, §1, the presbyteral council should be a group of priests which represent the *presbyterium* of the diocese. According to A. Alaguelvan, this representation is very important in that it bridges the gap between the bishop and his priests and helps to achieve the cooperation of the priests in the governance of the entire diocese.⁷ What kind of representation is the Code referring to? We have mentioned that J.I. Arrieta, prefers to call it a moral representation, that is a reflection of the entire *presbyterium* and the various functions and offices inherent in it.⁸

The statutes reveal several different models for achieving this representation. The first model we have identified includes representatives from either all, or at least three, of the following categories.

- The various regions or deaneries or vicariates of the archdiocese
- Priests in non-parochial ministries, e.g., education and chaplaincies
- Priests who belong to institutes of consecrated life or societies of apostolic life
- Retired priests
- Non-incardinated secular priests who have a canonical appointment or faculty in the archdiocese

⁷ ALAGUSELVAN, *Priests' Council*, p. 64.

⁸ ARRIETA, "Particular Churches," p. 410. Arrieta notes that the representation that is spoken of here is not quantitative, i.e., it is not the representation of priests considered individually but a representation that should reflect all the *presbyterium* and of the variety of functions, circumstances and offices inherent in it. He says this is the representative nature desired by canons 497-499, in accordance with the Circular Letter *Presbyteri sacra* and the Directory *Ecclesiae imago*.

Twelve of the statutes under consideration use this model.

In the second model are archdioceses that choose their representatives from the following categories.

- Deaneries
- Age groups
- Active priests
- Retired priests
- Non-incardinated priests
- Religious priests

This model, used in six of the statutes under consideration, introduces the categories of age groups and active priests.

In the third model are archdioceses that introduce other new categories, like pastors or administrators and assistant pastors or parochial vicars. These archdioceses elect their members from these categories and some of the other categories mentioned above in models one and two. Three of the statutes under consideration use this model.

In the fourth model, we have a combination of several ambiguous models. Among these are archdioceses that have no clear indication of how representation is to be achieved but instead simply say certain numbers of priests are to be elected from among the *presbyterium*. Some other archdioceses simply say that one priest is to be elected from each deanery, or that certain numbers of priests are to be elected from the group of diocesan priests and certain numbers from the group of religious priests. Still another variation of this model is seen in the archdioceses in which members of the council are

not elected but appointed by the bishop. The statutes of seven archdioceses fall under this model.

The fifth model is truly unique, used in only one archdiocese. Its statutes say that all incardinated priests of good standing as well as all religious priests and all secular priests of other dioceses who have a pastoral office in the archdiocese are members of the council. In this case, nothing is said about representation or election in the statutes since virtually every priest in the archdiocese is *ipso iure* a member.

Although situations differ from one diocese to another, it is our opinion that, to achieve maximum conformity with the Code, representation on the council should reflect the ethnic or regional diversity (deaneries) of the diocese; age and conditions of priests (junior or senior, active or retired); ministries in the diocese (education and chaplaincies); diocesan and religious priests, as well as the non-incardinated priests who have canonical appointments in the diocese.⁹ The statutes should clearly state how these representatives are to be elected from these different categories. The Code makes it clear that about half the members are to be elected, and it defines this council as representative of the *presbyterium*.¹⁰ Dioceses where all the members of the council are appointed by the bishop, or where every priest in good standing in the diocese is a member of the presbyteral council (without prejudice to the exceptional situation where the total number of priests in the diocese is so small), are not in conformity with the Code.

⁹ While acknowledging the significance of representation, Marchesi warns against the danger in excessive preoccupation with electing representatives from ministries and zones. He seems to suggest that, with this approach, some other priests who would have been better equipped and disposed for this role may be overlooked. See MARCHESI, "Council of Priests," p. 1209.

¹⁰ See cc. 495, §1 and 497.

3.2.2 Assisting the Bishop

Canon 495, §1 says that the presbyteral council is a group of priests which is like a senate of the bishop. It goes further in saying that the council's role is to assist the bishop in accordance with the law in the governance of the diocese. According to *Presbyterorum Ordinis* 7, this assistance is to give advice. In some cases, however, this assistance may also require giving consent (c. 500, §2). In Chapter Two we identified the situations in which, according to the Code, the diocesan bishop must seek counsel from the presbyteral council before he acts. With regard to consent, however, the Code does not identify specific situations but simply says, "the diocesan bishop needs its consent only in cases expressly defined by law" (*in casibus iure expresse definitis*, c. 500, §2). The canon uses the word *ius*, which would include the statutes of the presbyteral council.

Our concern, therefore, is to examine whether the statutes under consideration indicate the situations in which the bishops must consult their councils or receive their consent. This should be an essential aspect of the statutes since, according to canon 94, §1, the purpose of statutes is to define the constitution and the manner of acting of the particular aggregate of persons. Establishing cases necessitating the consultation or consent of the presbyteral council is a fundamental way of determining the presbyteral council's manner of acting and, moreover, pertains to the validity of the pertinent juridic acts placed by the bishop.¹¹ Indicating these situations in the statutes can make members aware of the significance of their role in assisting the bishop in the governance of the diocese in conformity with the provisions of the Code.

An examination of the statutes under consideration reveals only nine archdioceses that have enumerated the cases in which the bishops must consult their councils. These

¹¹ See c. 127, §2.

are the archdioceses of Denver, Galveston-Houston, Gatineau-Hull, Grouard-McLennan, Los Angeles, New York, St. John's, St. Louis and Toronto. Below is an example from the Archdiocese of Los Angeles:

In most matters, the Council of Priests enjoys a consultative vote (canon 500, §2). In accord with the norms of law, the Archbishop must consult the Council (in the manner prescribed by canon 127, §1) concerning the following:

- 1) about the advisability of an Archdiocesan Synod (canon 461, §1);
- 2) concerning the establishment, suppression, and division of parishes or the modification of the nature of a parish or its boundaries (canon 515, §2);
- 3) in regulating the allocation of offerings on the occasion of parish services (canon 531);
- 4) before mandating that a parish pastoral council be established in every parish (canon 536, §1);
- 5) before granting permission to build a church (canon 1215, §2);
- 6) before authorizing that a church be converted to secular purposes except where it has become impossible to continue using it for worship (canon 1222);
- 7) regarding the imposition or the modification of Archdiocesan assessments (canon 1263).¹²

It is important to mention that the fact that other statutes have not enumerated these situations does not imply that they are not in conformity with the Code, since the canons in question are binding whether or not they are restated in the statutes. Nevertheless, enumerating these situations highlights the canonical significance of the council and alerts the council members to one of their principal responsibilities.

¹² ARCHDIOCESE OF LOS ANGELES, "Statutes of the Council of Priests," archdiocesan archives, Los Angeles (=ARCHDIOCESE OF LOS ANGELES, "Statutes"), p. 4. None of the statutes adds any cases requiring the bishop's counsel or consent apart from those in the Code.

3.2.3 Approval of Statutes and Conformity to the Norms of the Conference of Bishops

We have mentioned that according to Canon 496: “The presbyteral council is to have its own statutes approved by the diocesan bishop, attentive to the norms issued by the conference of bishops.” This requirement is not uniformly observed. We have seen that, out of the fifty archdioceses across the United States and Canada from which we requested statutes, representatives from two archdioceses wrote to say that they have no statutes. Moreover, there was no response from nineteen others, which may suggest, although not necessarily, that some of them may not have statutes as well. Moreover, if not all archdioceses are in conformity with the Code on this matter, one might well expect even less conformity from smaller suffragan sees.

The statutes of the council of priests is a legal diocesan document (c. 94, §3) that must be approved by the diocesan bishop. Without approval, the statutes lack binding force. Ordinarily, this approval would be done by a singular administrative decree (c. 48), but in a good number of the statutes received, the bishop’s approval was indicated by his signature at the end of the statutes themselves. Although a mere signature with no statement expressing approval is not an explicit approval, it is nevertheless an express form of approval that is both valid and licit. By affixing his signature, the bishop indicates that he has approved the document. Thus, it is important for the statutes of the presbyteral council to have the express, and preferably explicit, approval of the diocesan bishop in writing. While an oral approval would not be invalid,¹³ there would be no

¹³ The requirement of canon 37 that singular administrative acts be in writing is only for liceity. See canon 10.

record of it, which could create uncertainty about its binding force in subsequent years when a new bishop and new council members are in office.

Have the statutes under review also taken account of the norms laid down by the conferences of bishops of the United States and Canada in accordance with the directives of the Code? The National Conference of Catholic Bishops (since 2001 the United States Conference of Catholic Bishops) decreed that “statutes of the presbyteral council are to include the provision that the council shall meet at least four times a year, in order that it may effectively fulfill its purpose of aiding the diocesan bishop in the governance of the diocese according to the norm of law.”¹⁴ The archdioceses from the United States show that all but one have included this provision in their statutes. Three archdioceses indicate that meetings will be held monthly. One archdiocese indicates that meetings will be held seven times in a year. Five archdioceses indicate that meetings will be held six times in a year. Five archdioceses indicate that meetings will be held five times in a year. Three archdioceses indicate that meetings will be held four times in a year. One archdiocese lacks this provision but instead simply says, “[t]he council is to meet regularly on a schedule to be adopted by the council and approved by the archbishop.” The term “regularly” does not mean the same thing as “at least four times a year,” as required by the decree of the USCCB.

The Canadian Conference of Catholic Bishops (CCCB) has regulated this matter differently:

The presbyteral council in each diocese shall have an executive committee, chaired by the diocesan bishop or his delegate.

The presbyteral council is to meet at least twice a year; it has a consultative vote.

¹⁴ *CCLA*, p. 1791.

The term of office of priests elected to the presbyteral council or appointed by the diocesan bishop is not less than two years nor more than five years, renewable.¹⁵

The statutes received from the archdioceses in Canada reveal that seven archdioceses have explicitly included this provision of the CCCB on the executive committee in their statutes. Four other archdioceses do not seem to have an executive committee or, at least, have not made mention of them in their statutes.

The CCCB norm mandates that the presbyteral council is to meet at least twice a year, and all but two of the statutes have complied with this provision. One of the two simply says “the archbishop convokes and presides over the meetings of the council” without making reference to how often the meetings should be held.

Regarding the CCCB decree which says that the term of office of council members should not be less than two years or more than five years renewable, the statutes reveal that all the archdioceses are fully in conformity with this norm.

3.2.4 Designation of Council Members

The designation of the members of the presbyteral council is to be based on the rules of canon 497.

In what pertains to the designation of members of the presbyteral council:

1° the priests themselves are freely to elect about half, according to the norm of the following canons and of the statutes;

2° according to the norm of the statutes, some priests must be *ex officio* members, that is, members who are to belong to the council by reason of the office entrusted to them;

3° the diocesan bishop is freely entitled to appoint others.

¹⁵ *CCLA*, p. 1660.

The first two of these three modes of designation are mandatory, and the third is left to the free choice of the bishop. We shall now see how canon 497 is implemented in the statutes under consideration.

3.2.4.1 Membership by election

In accordance with the above canon, about half of the total number of council members is to be freely elected by the priests themselves. The Code does not have a fixed or minimal number of priests that should constitute the presbyteral council; that is left to the statutes. Rather, whatever number of members is determined, about half of this number should be elected by the priests themselves. This requirement is a constitutive law not subject to dispensation,¹⁶ but the words “about half” (*dimidia circiter pars*) allow for a degree of flexibility according to local needs and conditions. In any case, the statutes ought to indicate clearly how this is to be achieved.

In our analysis of the statutes from archdioceses in the United States and Canada, we found twenty statutes which, in conformity with the Code, clearly indicate the composition of the membership of the council. We shall look at two examples, one from the Archdiocese of Philadelphia in the USA and the other from Toronto in Canada. The Philadelphia statutes provide the following.

Section 2. - Composition

The membership of the council shall consist of fifteen (15) elected members and a certain number of *ex officio* and appointed members as stated below, the total amounting to no more than twenty-six (26) members.

Section 3. - Elected Members

The fifteen (15) elected members of the council shall be drawn from the following categories:

- a) Category One- Six pastors or administrators, one from each one of the six vicariates.

¹⁶ See HUELS, “Categories of Indispensable and Dispensable Laws,” pp. 41-73.

- b) Category Two- Five assistants (one from ordination to five years, one ordained from five to ten years, one ordained from ten to fifteen years, one ordained from fifteen to twenty years, and one ordained twenty years and more).
- c) Category Three- One priest engaged in specialized ministry.
- d) Category Four- One priest in retirement.
- e) Category Five- Two religious, elected by the religious priests residing within the archdiocese and exercising official archdiocesan appointments, with no religious community having more than one representative.

Section 4.- *Ex officio* Members

The following are *ex officio* members of the council:

The Auxiliary Bishops
 Vicar for Administration
 Secretary for Clergy

Section 5.- Appointed Members

The Archbishop may freely appoint other members, the total membership not to exceed twenty-six (26).¹⁷

The statutes clearly indicate the total number of priests composing the presbyteral council (26). In addition, the statutes state clearly how many members out of the twenty-six should be designated by election (15). This number is in conformity with the Code's requirement that about half are to be freely elected by the priests themselves.

In our second example, from the Archdiocese of Toronto, the statutes do not explicitly say what the total number of members should be but say clearly how many members should be elected by the priests themselves (18) and how many members may be appointed by the archbishop (4).

Membership

4. The council consists of *ex officio*, elected, and appointed members.

¹⁷ ARCHDIOCESE OF PHILADELPHIA, "Council of Priests Statutes," archdiocesan archives, Philadelphia, 1996 (=ARCHDIOCESE OF PHILADELPHIA, "Statutes"), pp. 2-3.

- a. The Archbishop, Vicars General [who are two in number],¹⁸ Episcopal Vicars [who are four in number, two of whom are the vicars general],¹⁹ and Chancellor are *ex officio* members of the council.
- b. Elected members shall number twelve diocesan priests and six priests from religious institutes with houses in the archdiocese.
- c. The Archbishop may appoint four members to the council.²⁰

Although this example may not be as good as the previous one, the ratio between the elected members and the appointed members precludes a situation whereby the *ex officio* members and the appointed members is more than about half of the total number of members.

The point we wish to make clear here is that, to achieve conformity with the ratio that about half of the council members should be by election as prescribed by the Code, it is not enough for the statutes to indicate how many council members should be elected, but it is also important to indicate, in addition to the *ex officio* members, how many more members the bishop could appoint (should he choose to) in such a manner that the *ex officio* members and the appointed members do not by much exceed half of the total number of members.

Six of the statutes surveyed have no indication of how to satisfy the requirement that about half of the members will be elected. These statutes mention the number of members who should be elected, but they fail to indicate the total number of members

¹⁸ See CANADIAN CONFERENCE OF CATHOLIC BISHOPS, *Canadian Catholic Church Directory*, Montréal, Novalis Publishing Inc., 2010, p. 330.

¹⁹ *Ibid.*, p. 331. This document shows that one position is presently vacant, that of the vicar for Central Pastoral Region, Scarborough, and the vicar for the Ethnic Apostolate. If this position is filled, then there will be five episcopal vicars in all.

²⁰ ARCHDIOCESE OF TORONTO, "Constitution of the Council of Priests," archdiocesan archives, Toronto, 1992 (=ARCHDIOCESE OF TORONTO, "Statutes"), p. 2.

and the number of members the archbishop may freely appoint. Examples of this approach are seen in statutes of two archdioceses below. The first is from the United States and the second from Canada. According to the statutes from the United States:

Membership consists of any coadjutor bishop, any auxiliary bishop (s) of the Archdiocese [...]; one (1) priest elected from each deanery, those priests who serve *ex officio* [the vicar(s) general and the Episcopal Vicar for Priests], and those appointed by the Archbishop.

The approach seen in the statutes from Canada is as follows:

Article 3

Section 1- In accord with canon 497 the council of priests shall be composed of seven elected members and three *ex officio* members designated below.

Section 2- In virtue of the office which they hold, the following are *ex officio* members of the council of priests:

Vicar (s) General
Chancellor

Section 3- The archbishop may appoint diocesan or religious priests as members of the council to provide special expertise and to achieve a representation which reflects the diversity of the priests of the diocese.

The statutes from one archdiocese indicate the number of council members who should be elected (five), the number who could be appointed by the archbishop (two to five), and the officeholders who could become *ex officio* members.

Article III: Membership

Section 1 Membership shall consist of: the five (5) nominated and appointed Deans; *ex officio* members in accordance with Section 3 hereof and two (2) to five (5) appointed members at the Archbishop's discretion.

Section 2 The elected members, one (1) for each deanery, shall be elected at the respective Deanery meetings by the end of October. A simple majority of votes cast shall elect. The term of office for elected Deans,²¹ once appointed, shall be three (3) years. In the case of transfer, resignation or death, a new Dean shall be nominated and when appointed serve on the council.

²¹ It is not clear from this statute whether the said deans are elected or they are council members from the deaneries, but we assume that they are elected members of the council who also serve as deans, since they appear under the section of elected members.

Section 3 The *ex officio* members shall be the Vicar (s) General, the Episcopal Vicar for Spiritual and Canonical Affairs including the Moderator of the Curia, as well as any member of the College of Consultors whose term on the Council has expired.

Section 4 The appointed members shall be named by the Archbishop, preferably, one from each of the [...] and [...] Deaneries for a term of two (2) to three (3) years renewable, and as many as three (3) others, according to the Archbishop's requirements for the Council.

This would result in the elected members of the council comprising only about one-third of the total council members. This is certainly not in conformity with the Code.

Two other statutes have no mention of any elected members. In the case of one, all the incardinated priests of the archdiocese in good standing and other priests who have a pastoral office in the archdiocese are *ipso iure* members of the council.²² In the case of the other, members are either appointed or serve *ex officio*. In these two cases, the provision of canon 497, 1° is completely ignored.

3.2.4.2 *Ex officio* members

As noted above, the Code says that some priests must, in accordance with the statutes, be members *ex officio* by reason of the office they hold. The Code leaves it to the statutes to determine what these offices should be. According to Arrieta, this will depend on the criteria established by each conference of bishops.²³ The conferences of the United States and Canada have not established any norm on this. There are different opinions on who these officials should be. Arrieta, for example, suggests the vicars general and episcopal vicars, the chancellor, the rector of the seminary, etc.²⁴ The episcopal conference of Belgium says: "Among *ex officio* members with active voice,

²² This is allowed only in exceptional cases. See *AS*, no. 182, p. 200.

²³ ARRIETA, "Particular Churches," p. 412.

²⁴ *Ibid.*

there should always be included the vicars general, the seminary president, as well as a representative of the cathedral chapter.”²⁵

Whatever the case, this provision of the Code that some priests are *ex officio* members by reason of the office they hold is, according to Arrieta, a constitutive law from which the bishop cannot dispense.²⁶ So, in the absence of a norm from the conference of bishops, the statutes should indicate who these officers (priests) should be for each diocese. An examination of the statutes under consideration reveals that all but one have fully complied with this provision of the Code. Since different criteria were used by different archdioceses, the officers that constitute the *ex officio* members vary from one archdiocese to another. Below are three noteworthy examples from the United States and three from Canada.

In the Archdiocese of New York, the *ex officio* members are priests holding the offices of vicar general, chancellor, judicial vicar, executive director of Catholic charities, director of the archdiocesan personnel board, rector of St. Joseph’s Seminary and vicar for clergy.²⁷ In the Archdiocese of Miami, the following are *ex officio* members of the presbyteral council: the auxiliary bishops; the vicars general (who are not also auxiliary bishops); priests who hold the offices of Archdiocesan Ministries of General Services, Persons, Temporalities, Christian Formation, Worship and Spiritual Life, Pastoral

²⁵ EPISCOPAL CONFERENCE OF BELGIUM, “Particular Legislation: Statutes for Presbyteral Councils,” in *DocCath* 84 (1987), pp. 276-277, English translation in *CLD*, vol. 11, 1991, p. 70.

²⁶ ARRIETA, “Particular Churches,” p. 412. He says this is the case because the canon uses the words *esse debent*, not *esse possunt*, as in the first drafts of the canon. Cf. *Communicationes*, 5 (1973), p. 229.

²⁷ ARCHDIOCESE OF NEW YORK, “The Statutes of the Presbyteral Council,” archdiocesan archives, New York (=ARCHDIOCESE OF NEW YORK, “Statutes”), p. 2.

Services, and Priestly Life and Ministry; the Rector of Saint John Vianney College Seminary; and the Rector of the Cathedral of Saint Mary.²⁸ For the Archdiocese of Philadelphia, the following are *ex officio* members of the council: the auxiliary bishops, the Vicar for Administration, and the Secretary for Clergy.²⁹

In the Archdiocese of Ottawa, the *ex officio* members are the vicars general, the episcopal vicars, the regional vicars, the chancellor, and the diocesan bursar if he is a priest.³⁰ The *ex officio* members of the council in the Archdiocese of Winnipeg are the vicar(s) general, the Episcopal Vicar for Spiritual and Canonical Affairs including the Moderator of the Curia, as well as any member of the college of consultors whose term on the Council has expired.³¹ In the Archdiocese of Halifax, the vicar general is an *ex officio* member of the council.³²

In the above examples from the USA, the *ex officio* members range from three in Philadelphia to about seven in New York and about ten or more in Miami. Also, the offices are relatively different. In the case of the examples from Canada, the offices range from one in Halifax to about five in Ottawa and five in Winnipeg. These offices in the Canadian archdioceses are also somewhat different.

²⁸ ARCHDIOCESE OF MIAMI, “Presbyteral Council of the Archdiocese of Miami (Statutes),” archdiocesan archives, Miami, 2006 (=ARCHDIOCESE OF MIAMI, “Statutes”), p. 2.

²⁹ ARCHDIOCESE OF PHILADELPHIA, “Statutes,” p. 3.

³⁰ ARCHDIOCESE OF OTTAWA, “Constitution (Council of Priests),” archdiocesan archives, Ottawa, 2005 (=ARCHDIOCESE OF OTTAWA, “Statutes”), p. 2.

³¹ ARCHDIOCESE OF WINNIPEG, “Council of Priests Statutes,” archdiocesan archives, Winnipeg, 1997, p. 2 (=ARCHDIOCESE OF WINNIPEG, “Statutes”).

³² ARCHDIOCESE OF HALIFAX, “Statutes,” p. 2.

We acknowledge that it may not be possible, and would not even be desirable, to have absolute uniformity in terms of the offices whose priests could be *ex officio* members. Nevertheless, it is our opinion that some degree of uniformity would be beneficial to reduce the disparity between dioceses and provide some common standards. To achieve this, there might be a need for the conference of bishops to recommend or decree a list of offices, at least those that minimally should be included in the statutes as the *ex officio* members.

3.2.4.3 Membership by appointment

Aside from priests who become members of the presbyteral council by election and those who are members *ex officio*, the Code indicates a third way, by the appointment of the diocesan bishop. This third manner is not mandatory; the bishop is free to appoint additional members or not. All but one of the statutes under consideration include this provision of the law which gives the right to the diocesan bishop to freely appoint more members. This should however be done in such a manner that the appointed and the *ex officio* members do not greatly outnumber the elected members, who should be about half the total membership. Some of the statutes acknowledge the significance of this provision in providing for representation by appointment of some minority groups and ministries that may not have been identified or envisaged by the statutes. This is an example from the Archdiocese of Hartford.

C. Appointed Members:

The Archbishop, should he choose, may appoint additional priests provided that the total number of *ex officio* members and appointed members be less than the number of elected members and that the total number of council members be no more than thirty (30). Possible categories for appointees may include younger priests, retired priests, religious and those in special or ethnic ministries if priests in these categories are not represented among the elected members.³³

³³ ARCHDIOCESE OF HARTFORD, "Statutes," p. 3.

3.2.5 Active and Passive Voice

Canon 498 treats those who have active and passive voice with respect to the election of members of the presbyteral council.

§1 The following have the right of election, both active and passive, in constituting a presbyteral council:

1° all secular priests incardinated in the diocese;

2° secular priests not incardinated in the diocese and priests who are members of some religious institute or society of apostolic life, who reside in the diocese and exercise some office for the good of the diocese.

§2 To the extent that the statutes provide for it, the same right of election can be conferred on other priests who have a domicile or quasi-domicile in the diocese.

We have already explained the concepts of active and passive voice in chapter two. Our focus in this present chapter is to examine whether the statutes under consideration have conformed to the requirements of this canon.

Before proceeding to the actual analysis, it is important to emphasize here that, by universal law, certain priests have both active and passive voice, namely, those mentioned in numbers 1 and 2 of the first paragraph of this canon. J. Alesandro alludes to this with regard to incardinated priests, “[t]he universal law makes no exceptions in regard to incardinated priests. Even those exercising their ministry outside the diocese retain their rights.”³⁴ He adds, however, that this right to active and passive voice is not absolute; it could be restricted for a proportionately grave reason. For example, a priest who is away from his diocese illegitimately or one who is no longer exercising his priestly ministry may have this right restricted by the diocesan bishop.³⁵ The bishop

³⁴ ALESANDRO, “The Internal Ordering of Particular Churches,” p. 403. See also *Communicationes*, 13 (1981), p. 130.

³⁵ *Ibid.*

would, nevertheless, be required to observe the pertinent penal laws and procedures (cf. c. 221, §3).

Diocesan laws or statutes cannot restrict those mentioned in canon 498, §1, 1° and 2° from exercising their right of active and passive voice. So, secular priests who are incardinated, secular priests who are not incardinated and priests who are members of an institute of consecrated life or a society of apostolic life, who live and exercise some office for the good of the diocese, have this right. By implication, it would violate this right to exclude its exercise or to limit the manner of their becoming members of the council only to appointment. With regard to priests who only have domicile or quasi-domicile in the diocese, it is completely the prerogative of the statutes to give them this right or not.

In light of the provisions of this canon, we will now analyze the statutes under consideration. Our focus is on whether the statutes expressly indicate those who have active and passive voice and, if so, whether they assign this right to all the categories of priests mentioned in canon 498, §1, 1° and 2°. In addition, we seek to answer whether the statutes make reference to those priests who are incardinated in the diocese but who legitimately reside outside the diocese, for example, for a mission assignment or study.

Our review reveals that the council statutes of twenty-five archdioceses make explicit or implicit reference to those who have active and passive voice. Three archdioceses make no reference to those with active or passive voice. The statutes from one archdiocese indicate those with passive voice only by using the phrase “elected members” without mention of those with active voice.

On whether the statutes assign this right of active and passive voice to all the categories of priests mentioned in canon. 498, §1, 1° and 2°, eighteen statutes expressly acknowledge the right of active and passive voice by the three groups of priests in this category. Three archdioceses do not make any reference to this. The statutes of one archdiocese implicitly acknowledge this right of active and passive voice by the three groups of priests in this category with the following words: “All priests in the archdiocese of [...] are eligible to vote in the deanery in which they are domiciled according to the norms of canon 498.” In the statutes of another archdiocese, there is no reference to religious and non-incardinated priests. Similarly, the statutes from four archdioceses do not mention non-incardinated priests. The statutes of one archdiocese explicitly exclude extern priests serving less than six years in the archdiocese. It is important to quickly mention here that this restriction is invalid because it is contrary to the Code which imposes no such restriction on the right.³⁶ In one other archdiocese, the statutes allow the religious communities to nominate three members while the archbishop selects one from the three persons nominated by each community. Finally, the statutes of an archdiocese say that religious priests are to be appointed. This is a denial of their right to election.

With regard to those priests who legitimately reside outside the diocese, the statutes from the archdioceses of Cincinnati, Hartford, Montréal and Newark explicitly make reference to them and acknowledge their right to active and passive voice. The statutes from one archdiocese explicitly deny them passive voice, which is certainly invalid as it is directly contrary to the Code. The statutes from one other archdiocese say they have to be resident of the archdiocese at the time of nomination to enjoy passive

³⁶ See c. 135, §2.

voice; this is also invalid (cf. c. 135, §2). Eleven statutes make implicit reference to them by using phrases like, “all incardinated priests,” “all diocesan priests who are incardinated,” and “all priests in and of the archdiocese.”³⁷ About twelve other statutes have no reference of any sort to non-resident priests. Although these twelve do not explicitly exclude this category of priests, they use wording which does not include them, for example: “All priests in the Archdiocese of [...] are eligible to vote in the deanery in which they are domiciled according to the norms of canon 498.” Another example is seen in the following statutes which read: “The diocesan elected members shall be chosen from the priests having their canonical parochial assignment within the ten deaneries of the archdiocese or, failing that, having their assigned residence within the respective deaneries according to the method that follows.”

It is our opinion that statutes should use canonical phrases which are in conformity with universal law and which do not diminish or conceal the rights to active and passive voice attributed by the Code. Even if priests who lawfully reside outside the diocese may not be able to serve on the council, they do not lose their passive voice. Indeed, upon election they could well choose to return to the diocese or decline the election, which is also their right (cf. c. 177). They should also be encouraged, as members of the *presbyterium*, to exercise their active voice, and the statutes should state how this is to be achieved.

³⁷ These are the archdioceses of Anchorage, Baltimore, Chicago, Galveston-Houston, Gatinea-Hull, Miami, New York, Philadelphia, St. John’s, Toronto, and Vancouver.

3.2.6 Election Procedure

Canon 499 states: “The manner of electing members of the presbyteral council must be determined in the statutes, in such a way that, insofar as possible, the priests of the *presbyterium* are represented, taking into account especially the different ministries and various regions of the diocese.” This canon makes it clear that the determination of the manner of election is an essential part of the statutes. This point should be taken seriously in the light of the significance of the presbyteral council in the governance of a diocese because, if the election procedure is not defined and executed lawfully, the aim of this body may be defeated. Hence, in order that this council may effectively perform its duty in accordance with the mind of the Church, the procedure for election should be determined in accordance with the provisions of the Code on election and executed accordingly during the actual election, so that those who are best disposed for this role may be lawfully elected.

Our concern in this section is to see whether the statutes under consideration have duly determined, in accordance with this canon, the manner by which the members of the council will be elected. If this determination has been made, we shall proceed to highlight some of the important issues to which the statutes should give specific attention.

3.2.6.1 Three models of election procedures

In our review of the statutes, we find that twenty-three include sections with a detailed determination of the manner by which members of the council are elected. As we can see in the models below, the statutes have different modes of election in keeping with the different circumstances and traditions of each diocese. This is a significant and key purpose of statutes and other sources of particular law (*ius particulare*): to accommodate

the broader rules and principles of the universal law to the particular condition of each diocese.

Model 1 (Toronto)

Chapter III – Annual Elections

7. There shall be an annual election for six diocesan and three religious priests.

Passive Voice 8. (a) All diocesan/religious priests enjoying the faculties of the Archdiocese and residing in its territory may be elected or appointed members of the council.

(b) Any priest elected to the Council not wishing to serve will be required to present his reasons to the Archbishop.

Active Voice 9. (a) All priests incardinated in the Archdiocese of Toronto as well as all other diocesan priests and religious priests who are not assigned to a house erected in the Archdiocese who enjoy the faculties of the Archdiocese may vote for members of the Council according to the regulations for diocesan elections.

(b) All religious priests who are assigned to a House of Institutes of Consecrated Life and Societies of Apostolic Life in the Archdiocese who enjoy the faculties of the Archdiocese and reside in its territory may vote for members of the Council according to the regulations for religious elections.

Diocesan 10. The following election rules shall pertain to diocesan priests

(a) A list shall be prepared by the Election Committee dividing diocesan priests, as well as all religious priests who are not assigned to a house in the Archdiocese, into three groups according to the dates of their ordination. Each group shall be approximately one-third of the total number of diocesan priests. This list shall be mailed out to call for nominations at least three weeks before the date set for the elections during the months of May or June.

(b) Each priest will designate on the official ballot two names from each of the three groups and return the ballot to the Election Committee.

(c) The Election Committee shall prepare a list of candidates who have received five or more nomination votes.

(d) The two nominees receiving the largest number of votes in each of the three groups are elected to the Council.

Religious 11. The following election rules shall pertain to priests of Institutes of Consecrated Life and Societies of Apostolic Life.

(a) There shall at all times be one Councillor elected from each of the two Institutes or Societies with the largest number of priests assigned to Houses in the Archdiocese.

i. A list shall be prepared by the Election Committee in alternate years of the priests of each Institute who reside in the Archdiocese. This list shall be mailed only to their own members to call for nominations at least three weeks before the date set for the elections during the months of May or June.

ii. Each priest will designate one name on the official ballot and return the ballot to the Election Committee.

iii. The Election Committee shall prepare a list, if necessary, of the candidates who have received five or more nomination votes.

iv. The nominee receiving the largest number of votes is elected to the Council.

(b) Two Councilors shall be elected from a college of electors designated by other Institutes or Societies with Houses legitimately erected in the Archdiocese.

i. These electors shall be chosen by a free and secret ballot within each constituted or established House regardless of the various places in which the members of the House reside. These electors shall be chosen during the month of March and their names submitted to the Election Committee of the Council of Priests.

ii. Each House which is composed of six or fewer members may designate one member to this College of Electors. One more elector may be designated for each five additional members in any house.

iii. The two electors receiving the largest number of votes by this college of electors are elected to the Council.

iv. No Institute or Society shall be represented by a Councillor from its community for more than two consecutive terms without a two year absence from the Council of Priests (without prejudice to 10a).

c. No Institute or Society shall be represented by more than one elected member of the Council.³⁸

In this detailed determination of the manner of electing council members, we find two different elections: the first is for the diocesan priests and all religious priests who are not assigned to a religious house in the archdiocese (likely religious priests who are in parishes or some other ministries or institutions who are not residing in their houses). The

³⁸ ARCHDIOCESE OF TORONTO, "Statutes," pp. 2-4.

second is for the religious priests assigned to their houses in the archdiocese. In the first election, priests are divided into three groups according to their date of ordination. No other grouping, such as retired, special ministry, pastors or associate pastors, is mentioned. This model employs an at-large election in contrast to deanery or regional elections, i.e., one election for those in group one (diocesan and religious not assigned to a house) and another election for the religious assigned to their houses in the archdiocese.

Model 2 (Newark)

Article III: Membership

Section 1. The membership shall consist of the elected, *ex officio*, and appointed members (cf. canon 497). Those eligible to vote are:

- All Archdiocesan priests, i.e., incardinated into the Archdiocese
- Non-incardinated Secular priests (adjuncts) assigned to a useful office in the Archdiocese
- Religious priests serving the Archdiocese and enjoying its faculties (canon 498).

Section 2. The elected members shall be 12, chosen by mail ballot by and from the priests, archdiocesan, adjuncts, and religious in the Archdiocese as follows:

- (A) All the priests of the diocese will vote for four (4) members in the at-large category.
- (B) The priests of each of the four regions will vote for two (2) members for a total of eight.

Section 5. The elected and appointed members shall serve for a term of three (3) years. Elected members may succeed themselves for one additional three-year term. Appointed members may be reappointed by the Archbishop.

Section 6. The Presbyteral Council year shall begin on September 1. Terms for the Presbyteral Council shall end on August 31st. New terms shall begin on the first meeting of the Presbyteral Council after September 1st of the current year [...].

Bylaws

Section 7. Election Process:

1) Election Committee

The Election Committee shall be considered a standing committee. Its members shall be appointed by the Archbishop. The members shall serve on the committee until their terms end on the Presbyteral Council.

2) Who is eligible to vote

In the at-large category, all priests, even those retired, living outside of the diocese, and in service outside the diocese, shall have an opportunity to vote.

In the region category, all priests who have the faculties of the Archdiocese and who live within a region, shall have the right to vote.

3) Process of election

Nominations shall go out immediately after the transfer of priests in the spring cycle of the year. They should be returned to the Election Committee within two weeks. The Election Committee shall contact the nominees. Final ballots shall go out no later than the last week in July.

4) The record of the ballots shall be kept by the Election Committee.

5) The final total shall be communicated to the candidates and announced to the Presbyteral Council.

6) If a member of the Presbyteral Council elected from a region should leave the region, he will remain on the Council until the end of that Council year and then relinquish his place. The priest who had the next highest number of votes in the region shall succeed him on the Presbyteral Council to complete the unexpired term.

7) If a member of the Presbyteral Council should resign from the Presbyteral Council, then the priest who had the next highest number of votes in the category through which he was elected shall succeed him.³⁹

In this model, there are also two distinct elections but not based on the distinction between diocesan and religious as in the previous model. Rather, the first is classified as an at-large election and the second is based on regions. The first category involves all the priests, even the retired, those living outside the diocese and those in service outside the diocese. It should be noted that this model makes a clear mention of those priests outside the diocese. The second involves all the priests who have the faculties of the archdiocese and who live within a region in the archdiocese. In this model, there is no distinct election

³⁹ ARCHDIOCESE OF NEWARK, "Constitution and Bylaws of the Presbyteral Council," archdiocesan archives, 2009 (=ARCHDIOCESE OF NEWARK, "Statutes"), pp. 3, 6-7.

for the diocesan and religious priests. The diocesan priests, whether active or retired, the religious and all other priests who have the faculties of the archdiocese participate in the two categories of election. There is no separate election for any other grouping of priests, such as special ministries, pastors, associate pastors, etc.

Model 3 (Philadelphia)

Membership

Section 1. -Eligibility

All priests in good standing who are incardinated in the Archdiocese, as well as other priests who reside in the Archdiocese and, by reason of an official Archdiocesan appointment, exercise some office or ministry for the good of the Archdiocese, shall be eligible for membership in the Council of Priests. Any doubt concerning the eligibility of a priest shall be the decision of the Archbishop after consulting the priests of the Council [...].

Section 3. -Elected Members

The fifteen (15) elected members of the Council shall be drawn from the following categories:

- a) Category One - Six pastors or administrators, one from each one of the six vicariates.
- b) Category Two - Five assistants (one from ordination to five years, one ordained from five to ten years, one ordained from ten to fifteen years, one ordained from fifteen to twenty years, and one ordained twenty years and more).
- c) Category Three - One priest engaged in specialized ministry.
- d) Category Four - One priest in retirement.
- e) Category Five - Two religious, elected by the religious priests residing within the Archdiocese and exercising official Archdiocesan appointments, with no religious community having more than one representative [...].

Article IV

Term

Section 1. – Elected Members

The term of membership of elected members shall be three (3) years. An exception to this shall be in the case of the first election under these statutes whereby, to assure continuity, lots be drawn to provide that approximately one-third of the members serve terms of two (2) years, another one-third three (3) years, another one-third four (4) years [...].

Article VII

Nomination and Election of Members

Section 1. – The Committee on Nominations and Elections

There shall be a Committee of Elections composed of five (5) Council members appointed by the Archbishop (cfr. Art. X sect.1). This committee shall oversee the preparation and mailing of ballots and the tabulation of results.

Section 2. – Schedule of Elections

Nominations and elections shall be held beginning in September. Three weeks shall be allotted to the nomination process and the same for the election process.

Newly elected Council members begin their terms at the December meeting following their election.

Section 3. – Procedure on Nominations

Each priest in good standing who is incardinated in the Archdiocese, and each priest residing in the Archdiocese and having an official Archdiocesan appointment, is eligible to nominate a candidate from his respective category. With the exception of ex officio Council members and Regional Vicars, each priest listed above is eligible to be nominated within his respective category. It is noted that a religious priest who resides in the Archdiocese and who exercises an official Archdiocesan appointment is eligible to nominate a candidate from Category 5 and from Category 1,2, or 3, as applicable; such a religious priest is also eligible for nomination within the same categories.

All nomination ballots shall be sent to the Committee on Nominations and Elections. The names of the two (2) priests receiving the greatest number of nomination votes within each category shall be submitted once again to all priests eligible to vote for final election to Council.

Prior to the listing of an individual as a nominee, his spoken or written approval must be obtained. Should a candidate decline the nomination, then the one with the next highest number of nomination votes shall be listed for the election. All ties shall be resolved by seniority in ordination year, and if ordained in the same year, by seniority in age.

Section 4. –Procedure on Elections

Each priest eligible to submit a nomination in accordance with Article VII, Section 3, above, shall be entitled to one (1) vote per candidate for each of categories one through four, as described in Article III, Section 3 above.

All election ballots shall be sent to the Committee on Nominations and Elections. All ties shall be resolved by seniority in ordination, and if ordained the same year, by seniority in age. An election is decided by majority vote.⁴⁰

⁴⁰ ARCHDIOCESE OF PHILADELPHIA, “Statutes,” pp. 2-6.

This model presents a slightly different scenario in comparison with the previous two models. It presents five categories under which council members are to be elected. Members of each category nominate one priest each from their category or subgroup under such category and, thereafter, the two priests with the highest number of votes from each of these categories or subgroups are presented for the final election.

While the process of nomination is done by members of each category or subgroup, the final election for categories one to four involves all the priests eligible to submit nominations, which includes the religious priests in the archdiocese. The religious are involved in the nomination under categories one, two, and three and in the final election of those under categories one, two, three and four. Both the nomination and final election under category five are limited to the religious.

Each of these three models has its own distinct features and reflects the particular circumstances in each of these archdioceses. They are all in conformity with the Code, in that they attribute the right to active and passive voice in accordance with the Code. In adopting any of these models, an important concern is the extent of representation achieved since good representation is essential to the effectiveness of the collaborative role of this council. If a particular region or a significant ministry in the diocese is not represented, such statutes should be amended or the bishop should ensure that such representation is achieved through his appointments.

3.2.6.2 Degree of detail on election procedures

We noted that twenty-three statutes have a detailed determination of the manner of electing council members, but four statutes have minimal election procedures, leaving many matters undetermined. This may create uncertainties, inconsistencies from election

to election, and even arbitrariness. In one of these archdioceses, for example, the statutes treat eligibility and elected members with no reference to how they are to be elected, ignoring such matters as the date of election, its time frame, the size of majority needed, how to resolve a tie vote, etc. The statutes of another archdiocese simply leave the entire election procedure to the chancellor: “[...] under the supervision of the Chancellor, the list of all priests of each section will be established and sent to the priests of the section with a ballot to be completed and returned before the deadline.” In addition, the statutes of two archdioceses, have nothing on elections. Although the Code of Canon Law has elections procedures (cc. 164-179) that are applicable unless the statutes provide otherwise, these canons do not cover all the particular matters that should be addressed with respect to election of presbyteral council members where the statutes must attempt a process yielding a broad representation of the presbyterate in keeping with canon 498.

3.2.6.3 Matters pertaining to elections to be included in statutes

The following are some matters regarding the manner of election that statutes should determine.

1. *Election officers.* It is important to indicate whether the election will be presided over by the election committee of the council or, if this does not exist, whether it will be presided over by the secretary of the council or some other designated priests.
2. *Type of election.* The statutes should stipulate either a single or general election. If there is to be a single election for the diocesan priests and another for the religious, this should be stipulated as well. If the diocesan priests are going to be divided into groups, the groups should be indicated. If there are going to be two stages of election (e.g.,

election or nomination on deanery or group basis to be followed by a general and final election), this also should be indicated.

3. *Eligibility.* The statutes should indicate the categories of priests who have active voice and those who have passive voice.

4. *Schedule for election.* It is important to have a time frame for the election, i.e., the month of the year that the election will take place. If ballots are sent by mail, a deadline should be established for the close of the balloting. If there are two levels of election, times frames and deadlines must be established for each.

5. *Number of priests to be elected.* It is helpful to indicate the total number of priests to be elected from the *presbyterium* as a whole followed by the breakdown of the number to be elected from each category or group of priests.

6. *System of election.* The statutes should establish whether ballots are to be sent by mail or priests are to be convoked for election. The statutes should spell out how this should be done most effectively to avoid a situation whereby voters are overlooked. It would also be advisable to verify that the election procedures yield a canonically valid election (cf. c. 172).

7. *Tie vote.* Since there could be a tie in an election, it is important for the statutes to indicate how this should be resolved when it occurs. Otherwise, the standard canonical rule must be observed, namely, the person senior by age is elected (c. 119, 1°).

8. *Size of majority.* It may be desirable to indicate the number of votes needed to win, whether a simple or absolute majority, and the maximal number of ballots to achieve this majority. Otherwise, the canonical norm prevails (c. 119, 1°).

9. *Notification of election.* The statutes should indicate the means by which an elected member is notified of his election so that he may freely accept it as required by the Code (c. 177, §1).

10. *Term of office.* The statutes should specify the term of office for all members and the possibility and conditions for future re-election.

11. *Loss of office.* Some reference could be made to the kinds of reasons for removal (c. 193, §2) or resignation (c. 189, §2) from office. Provision also should be made for replacing a member who has lost the office for these or any other reasons (cf. c. 184, §1).

12. *Record of election.* The statutes should indicate how the election is to be recorded and archived for future reference.

3.2.7 Council Meetings

Canon 500, §1 states: “It is for the diocesan bishop to convoke the presbyteral council, preside over it, and determine the questions to be treated by it or receive proposals from the members.” This canon attributes to the diocesan bishop, by virtue of his office, the right to:

- convoke the presbyteral council,
- preside over it
- and determine agenda or accept proposals from members.

Our review of the statutes under consideration reveals different approaches in the application of this canon. (1) In the archdioceses of Vancouver,⁴¹ Hartford,⁴² and

⁴¹ ARCHDIOCESE OF VANCOUVER, “The Statutes of the Presbyteral Council,” archdiocesan archives, Vancouver, 2003, p.4.

⁴² ARCHDIOCESE OF HARTFORD, “Statutes,” p.4.

Quebec,⁴³ the archbishops convene, preside, and determine matters for the agenda or approve proposals from members. The Archdiocese of Hartford goes further in adding, “If the archbishop for any reason is not able to attend, he has the right to cancel, transfer or appoint someone to preside.”⁴⁴ This approach is in full conformity with the canon.

2) The second approach is slightly different from the first in that the bishop may be assisted by others in the exercise of his prerogatives under c. 501, §1. This is the approach in nine archdioceses: Seattle, Anchorage, Boston, Philadelphia, Baltimore, Newark, Gatineau-Hull, Montréal, and Rimouski. Here the bishop may personally fulfill the rights attributed to him by this canon: to convene, preside and determine matters for discussion; or, he may rely on the assistance of others as provided in the statutes. In the case of Seattle⁴⁵ and Baltimore⁴⁶, for example, there is in each of these archdioceses, an executive committee, convened by the archbishop, to assist him in preparing the agenda. In Anchorage⁴⁷ and Newark,⁴⁸ there is an agenda committee in each of these archdioceses composed of the archbishop and some others.⁴⁹ In Boston and Gatineau-Hull, there is a

⁴³ DIOCÈSE DE QUÉBEC, “Conseil Presbytéral,” diocesan archives, Québec, 1998, p. 2.

⁴⁴ ARCHDIOCESE OF HARTFORD, “Statutes,” p.4.

⁴⁵ ARCHDIOCESE OF SEATTLE, “Presbyteral Council (Constitution),” archdiocesan archives, Seattle, 2000, p. 3.

⁴⁶ ARCHDIOCESE OF BALTIMORE, “Statutes for the Presbyteral Council,” archdiocesan archives, Baltimore, 2008, p. 6.

⁴⁷ ARCHDIOCESE OF ANCHORAGE, “Statutes of the Council of Priests,” archdiocesan archives, Anchorage, p. 4 (=ARCHDIOCESE OF ANCHORAGE, “Statutes”).

⁴⁸ ARCHDIOCESE OF NEWARK, “Statutes,” p. 4.

⁴⁹ For Anchorage, the “some others” refer to two other members of the council; there is no indication whether these two others are elected or appointed (see “Statutes,” p. 4). For Newark, the “some others” refer to the executive secretary and three other members elected by the council (see “Statutes,” pp. 3-4).

moderator in each archdiocese, who under the direction of the archbishop, chairs council meetings.⁵⁰ In the case of Philadelphia and Rimouski, the archbishop may designate a member of the council to facilitate discussion.⁵¹ In Montréal, three priests are chosen to preside, under the direction of the archbishop, in the assembly of the council on a rotational basis for a period of three years.⁵² This approach also appears to be in full conformity with the Code.

3) A third approach is witnessed in ten archdioceses: In each of these statutes, the archbishop is said to be either the president or the chairman with the right to convene, preside and place matters of concern on the agenda. Nevertheless, these archdioceses also have other priests who are elected as chairmen and in some cases given the title of executive officers with the responsibility on a permanent basis (in most cases) of presiding over the meetings of the council.

This approach is a cause of some concern because it could yield a system of dual-leadership in the council or a situation whereby the bishop becomes a third party or figurehead in the council. The statutes should enable the presbyteral council to create an atmosphere whereby the diocesan bishop seeks counsel directly from his counselors. In addition, some of the archdioceses that adopt this approach have several officers and offices, which could bring about unnecessary bureaucracy. The primary duty of every

⁵⁰ ARCHDIOCÈSE DE GATINEAU-HULL, "Statuts du Conseil Presbytéral," archdiocesan archives, Gatineau Hull, 2003, p. 8. See also, ARCHDIOCESE OF BOSTON, "Statutes (Presbyteral Council)," archdiocesan archives, Boston, 2003, p. 3 (=ARCHDIOCESE OF BOSTON, "Statutes").

⁵¹ ARCHDIOCÈSE DE RIMOUSKI, "Conseil Presbytéral de Rimouski (Constitutions et Règlements)," archdiocesan archives, Rimouski, 2004, p. 4. See also, ARCHDIOCESE OF PHILADELPHIA, "Statutes," p. 7.

⁵² ARCHDIOCÈSE DE MONTRÉAL, "Constitutions du Conseil Presbytéral," archdiocesan archives, Montréal, 2005, p. 6.

member of the council is to give counsel to the diocesan bishop. Our main concern here is with the title “chairman” or “executive officer” when this position is established on a stable basis because this may create an unnecessary gap between the diocesan bishop and his counselors.⁵³

4) Three archdioceses adopt a fourth approach. In the case of the first, the archbishop is the president, but there is an elected chair who convokes all the meetings of the council; in consultation with the archbishop and deans, he prepares the agenda for meetings of the council and conducts the meetings of the council under the presidency of the archbishop. In the case of the second, the archbishop is not included in the list of officers, nor is there any direct reference to the rights of the archbishop as per canon 501, §1. Instead, the statutes simply say, “[w]ith the consent of the archbishop, the president [who is elected by the members of the council] has the right to call meetings, preside over meetings and place matters of concern on the agenda of the council.” In the case of the third, no reference is made to the rights of the archbishop in relation to canon 501, §1. Rather, the statutes simply say, “[t]he Executive Committee shall consist of the officers of the Council. It shall call meetings, prepare agendas and generally oversee the work of the council.” There is no information on how the executive committee is composed, and the archbishop is not said to be a member of the executive committee. In our opinion, this

⁵³ B.A. Cusack argues that the fact that the bishop is to preside does not preclude others fulfilling tasks such as chairing or facilitating meetings. See CUSACK, “Presbyteral Council,” p. 659. We are of the opinion that this should be on an ad hoc basis only, when for a just cause the diocesan bishop is not able to attend or preside over the meeting. We base our opinion on the fact that this role is part of the administrative responsibility of the diocesan bishop, since the consultation of the presbyteral council is required for validity in many cases. We also base our opinion on the significance of this council as the pre-eminent consultative organ of the diocese with the responsibility of promoting the pastoral welfare of all in the diocese, in which case it deserves to receive priority attention from the diocesan bishop. Moreover, the councilors are supposed to give counsel to the bishop, not any other person.

fourth approach further obfuscates the diocesan bishop's administrative duty as the direct recipient of counsel or advice from his counselors.

5) A fifth approach is found in the statutes of two archdioceses. The statutes of the first say, "[s]pecial meetings must be called when one third of the councilors make a written request to the chairman." There is no reference, however, to the one who convenes the regular meetings. In the case of the second, all council meetings are presided over by one of the co-presidents. Special meetings may be called at the request of the archbishop or at the request in writing of three members of the council. There is no indication whether matters for the agenda require the approval of the archbishop.

This fifth approach also raises some concern in that a certain number of members has the right to require the convening of a meeting. However, canon 501, §1 makes it clear that the act of convoking the council is the exclusive competence of the bishop, to which Arrieta comments: "Nor is it possible to reconcile with §1 [of c. 501] the possibility of the council convening itself, by means of the collection of a specific number of signatures."⁵⁴ We would not rule out the possibility that the statutes could allow members of the council to *request* the convening of meetings. It is our opinion, however, that even in this situation the approval of the bishop is needed before such a meeting may be convoked.

6) Still another approach is seen in the statutes of two archdioceses. In the case of the first, there is no reference made to the one who presides at meetings and who determines the agenda. In the case of the second, no reference of any sort is made to the agenda of meetings. We are concerned here with the preparation of the agenda. A well

⁵⁴ ARRIETA, "Particular Churches," p. 414.

conceived agenda is very important in the achievement of an organization's goals by helping to focus on the main issues under consideration. It is important, therefore, that the statutes provide explicitly for the diocesan bishop, or an agenda or executive committee under the direction of the bishop, to prepare the agenda for presbyteral council meetings.

3.2.8 Publishing the Acts of the Council

According to canon 500, §3, the presbyteral council is not able to act without the diocesan bishop who alone can make public what was determined according to the norm of §2. Twelve of the statutes under review have explicitly included this exclusive right of the diocesan bishop to make public those things decided on in the council. Six statutes concede this competence to the secretary, chairman or executive committee. One of these six, however, excludes confidential matters and indicates that they are to be recorded only in a confidential record of minutes. Eleven other statutes have no reference as to how the matters decided in the council should be made public.

We have seen that the presbyteral council is only an advisory body, and the diocesan bishop is not obliged to act in accordance with its decisions. Thus, it is important for the statutes to indicate clearly the exclusive right of the diocesan bishop to make public the acts of the council. It may also be worthwhile for the statutes to indicate those persons, offices and groups who should be given the acts of the council.

3.2.9 Term of Office

Canon 501, §1 states: "Members of the presbyteral council are to be designated for a time determined in the statutes, in such a way, however, that the entire council or some part of it is renewed within five years." There are two issues of concern here: the

first is the provision that the statutes should specify the period of time, i.e., the number of years for which council members are to serve. Whatever the statutes might stipulate (which could be determined by the conference of bishops), this canon goes on to introduce the condition that, within a five-year period, the council is to be renewed in whole or in part. Our concern here is to examine, firstly, whether the statutes under consideration indicate the term of office of council members and, secondly, whether they determine a process whereby within a five-year period the council is renewed in whole or in part.

As we mentioned earlier in our discussion of the approval of statutes by the diocesan bishop and their conformity to the norms of the conference of bishops (section 3.2.3), the statutes under review from Canada, in compliance with the directives of the CCCB, clearly indicate the terms of office for council members. With regard to renewing the council in whole or in part within a period of five years, nine statutes put in place a process by which this could be achieved. The remaining two statutes do not.

In the statutes from the USA, seventeen out of the eighteen under review clearly indicate the term of office for council members; only one of the statutes has no reference to it. Of these seventeen statutes, only eleven indicate a process whereby within a five-year period the council is renewed in whole or in part. The remaining six statutes have no indication.

It is very important for the statutes to specify the term of office for council members in order to avoid ambiguity and to foster the general organization of the council. In addition, the statutes should specify if the said term is renewable and, if so, how many times it may be renewed (whether once or more). Efforts must be made to avoid

ambiguous language which could be misunderstood or misinterpreted, for example, to say “the term of office is two or three years renewable.” Does that mean it can be renewed only once, or again and again?

It may also be desirable to specify an interval after the completion of the term or terms before one could be re-elected or re-appointed to the council. This would be more practical in a diocese with many priests available for service on the council than in a small diocese with few priests willing to take on more responsibilities.

On the renewal of the council in whole or in part within a five-year period, Gordon Read remarks that the significance of this requirement is to bring “helpful freshness in the advice and assistance given by the council.”⁵⁵ There are different ways of achieving this. Here follow three good and distinct examples.

Halifax

Article VI Term of Membership

A. A term is two (2) complete years

B. No one may be elected to the council after two (2) consecutive terms without the period of a full intervening term.⁵⁶

New Orleans

B. By-Laws Article Three: Term of Office

Section 1. The term of office of elected and appointed members shall be two years. No member may serve for more than three (3) consecutive terms.

Section 2. For purposes of rotation and continuity, half of the deanery representatives, half of the ordination-period group representatives, and half of the religious representatives will be elected each year, as determined by the Election Committee.⁵⁷

⁵⁵ READ, “Particular Churches and their Groupings,” p. 278.

⁵⁶ ARCHDIOCESE OF HALIFAX, “Statutes,” p. 3.

⁵⁷ ARCHDIOCESE OF NEW ORLEANS, “Constitution and By-Laws (Presbyteral Council),” archdiocesan archives, New Orleans, p. 6.

Los Angeles

The term of membership on the council shall be for five years.⁵⁸

Each of these examples specifies the term of office, but there are noteworthy differences on the ways in which the council is renewed in whole or in part during a five-year period. In the first example, the entire council (with the exception of those members who may be filling in vacancies) is renewed every two years.⁵⁹ In the second example, nearly half of the council (minus *ex officio* members) is renewed every year. In the third example, the entire council is renewed every five years (with the exception of those members who may be filling in vacancies in the situations where the unexpired terms are less than a year).⁶⁰

From what we have seen in the above analysis, it is obvious that some of the statutes under consideration should be revised in order to align their contents with the provisions of the Code. In this way, they will be able to achieve a high level of conformity with the Code and enhance the collaborative role of their councils in the governance of their dioceses.

⁵⁸ ARCHDIOCESE OF LOS ANGELES, “Statutes,” p. 3.

⁵⁹ This statute says that, if for whatever reason a vacancy occurs, the executive committee of the council with the archbishop may fill the vacancy in a manner they deem appropriate. Nevertheless, it does not say whether the person filling the vacancy will serve for two years or for the duration of the vacancy being filled (see “Statutes,” p. 4). Whatever the case, this situation still makes it possible for the council to be renewed at least in part.

⁶⁰ This statute makes it clear that if a vacancy occurs, the person who is filling the vacancy will complete the unexpired term of the one he is replacing. Nevertheless, for elected members, if the remainder of the unexpired term is less than a year, this special election shall preempt the regular election for the position in question; and the elected replacement shall serve the new five-year term in addition to the partial year of the unexpired term. See “Statutes,” p. 8.

3.3 Significant Means of Collaboration in the Statutes

Although one might say that the role of the presbyteral council is primarily to assist the bishop by giving him advice, in practice, however, the process of giving useful and well informed advice involves some preliminary fieldwork. Since the Code also uses the word “assistance” (c. 495) and does not strictly restrict the role of the presbyteral council to the level of merely giving advice, it follows that the bishop could also decide to use the council members, when necessary, to ensure that the decisions taken in the council, which he has endorsed, are implemented. In this light, the collaborative role of the presbyteral council in the governance of a diocese becomes evident. Some of the means of such collaboration include preparation of the agenda, committee work and the consultation of others.

3.3.1 Collaboration in Preparation of Agenda

The preparation of agenda is very important for the smooth conduct of a meeting and ultimately in the realization of the goals of any organization. Although the Code says it is the prerogative of the diocesan bishop to determine the matters to be discussed at the council, the presbyteral councils of some dioceses (as seen in the statutes under review) have agenda committees. They also have a process whereby the different organs of the diocese are able to offer their input into what should be considered on the agenda of the council. Two examples of such statutes are seen as follows, the first from Anchorage and the second from St. Louis.

Anchorage. “Items for inclusion on the agenda of the council meeting may be submitted to any member of the agenda committee no later than two weeks prior to the

meeting, by: the archbishop; individual priests; regional council of priests; lay groups; Archdiocesan institutions and organizations; Institutes of consecrated life and societies of apostolic life.”⁶¹

St. Louis. “Suggestions for the agenda may be submitted by: (1) any member of the council; (2) the priests, religious, and laity of the archdiocese, in writing to the chairman or to any member of the council.”⁶²

In the two examples, the different organs of the diocese are able to make their input on matters to be considered for the agenda of the council’s meetings. This is particularly significant since the concern of the presbyteral council, according to canon 495, §1, is the pastoral welfare of that portion of the people of God entrusted to the bishop. Caution must be taken, however, that this approach does not distract the council from its canonical objectives with a focus on trivial issues. Issues of greater importance should be given priority attention before the less important ones. In addition, the suggestions made by these different individuals and organs are not included on the agenda until they receive the approval of the diocesan bishop.

In some statutes, the secretary is responsible for sending a copy of the agenda to every member of the council prior to a meeting. This provides the council members with information to help them prepare for their role, especially to give useful and well informed advice to the bishop. Some examples are found in the statutes from the archdioceses of Philadelphia and Galveston-Houston.

⁶¹ ARCHDIOCESE OF ANCHORAGE, “Statutes,” p. 4, no. 15.

⁶² ARCHDIOCESE OF ST. LOUIS, “Statutes Council of Priests,” archdiocesan archives, St. Louis, 2007, p. 6, no. 4.

Philadelphia. “The business of a meeting shall be the agenda as established by the archbishop. Matters to be included in the agenda must be submitted to the Executive Secretary by the council members three (3) weeks in advance of the council meeting for which they are proposed. Any item presented for consideration for the agenda shall include its rationale. The Executive Secretary will prepare and forward a copy of the agenda to the members prior to the meeting.”⁶³

Galveston-Houston. “The statutes of this diocese require that the full agenda for a meeting be sent to members at least seven days before the meeting date.”⁶⁴

This system of prior notification of the agenda enables the council members to conduct the necessary research and inquiry before a meeting and thus puts them in a better position to give well informed advice. It may also help to deter council members from simply rubberstamping some dubious proposals out of ignorance for lack of suitable preparation. It positions them instead, to offer sound advice based on convincing facts and figures.

3.3.2 Committee Work

Another element identified that fosters the collaborative role of the presbyteral council in the governance of a diocese is the establishment and functioning of the council’s committees. In the statutes under review, we found that most presbyteral councils have standing committees. The committees play different roles in furthering the purposes and objectives of the presbyteral council and in implementing its decisions.

⁶³ ARCHDIOCESE OF PHILADELPHIA, “Statutes,” p. 6, Section 3.

⁶⁴ ARCHDIOCESE OF GALVESTON-HOUSTON, “Presbyteral Council (Statutes),” archdiocesan archives, Galveston-Houston, 2006, p. 7.

Paramount among these committees is the executive committee. In defining the role of the executive committee, the statutes of the Archdiocese of Seattle state: “The Executive Committee shall annually develop and recommend a work plan for the council, meet prior to each council meeting to develop recommendations to the archbishop concerning the meeting agenda, work with Chancery staff to ensure logistical and process support for the council’s deliberations, and regularly evaluate the council’s operations and effectiveness.”⁶⁵

Aside from the executive committee, other standing committees commonly established include a steering committee, an agenda committee, an election committee, a constitution committee, a priestly life committee, a pastoral life committee, and a temporal life committee. Some statutes also note the possibility of establishing *ad hoc* committees for special purposes. For example, in the statutes of the Archdiocese of Ottawa one reads: “Committees shall be established by the presbyteral council to accomplish specific tasks which are related to the goals and authority of the presbyteral council.”⁶⁶

It is unnecessary that every diocese have all these committees. Indeed, establishing too many committees could overburden council members and dissipate their energies. Therefore, committees should be established in accordance with the genuine needs of the diocese, especially of its presbyterate.

⁶⁵ ARCHDIOCESE OF SEATTLE, “Statutes,” p. 3, section 3. The statutes say that the executive committee consists of three members of the council who shall be elected by a plurality, by and from the council membership; the vicar general and the vicar for parishes and faith communities serve as *ex officio* members of the committee; and the archbishop is the one who convenes the committee.

⁶⁶ ARCHDIOCESE OF OTTAWA, “Statutes,” p. 2.

3.3.3 Consultation of Others

Some of the statutes have provisions that encourage or mandate consultations with others, apart from council members, before the council takes decisions. Accordingly, the statutes from the archdiocese of Omaha exhort: “The council shall strive to involve all active priests working in the archdiocese in its deliberations, especially through the deanery system and the mailing of the minutes of the priests’ council.”⁶⁷ In some statutes, the consultation process is more specifically defined, such that council members are encouraged or required to take agenda items to their constituent groups for discussion. One finds a rather elaborate process in the statutes from the Archdiocese of Seattle.

An issue is presented and discussed at the first meeting of the council. Deans then take the issue to their deanery consultative structure for discussion. At the second meeting of the council the results of those deliberations are shared with the council and the archbishop and further information is gathered and alternatives analyzed. This information is again shared at the deanery level. At the third meeting of the council a report is made by each dean about the deanery conversations and a final recommendation is made to the archbishop. While these deliberations generally occur over three meetings, fewer or more meetings may be necessary.⁶⁸

Although this may appear a rigorous and even cumbersome decision-making process, it no doubt helps the council to make decisions based on wide input. It thus ensures that matters are discussed with thoroughness, which is a hallmark of administrative effectiveness. Additionally, it results in a decision by the council that will be endorsed by the bishop and find broad support by the priests and others concerned.

⁶⁷ ARCHDIOCESE OF OMAHA, “Pastoral Policies Handbook (The Presbyteral Council),” archdiocesan archives, Omaha, p. 44.

⁶⁸ ARCHDIOCESE OF SEATTLE, “Statutes,” p. 4.

Conclusion

We have seen from the above analysis of presbyteral council statutes from a broad survey of North American archdioceses some significant elements which should form part of good statutes. Well formulated statutes are necessary tools in fostering the collaborative role of the presbyteral council in the governance of the diocese. The statutes should create the awareness of the need for collaboration and foster its realization in the governance of the diocese. The statutes must clearly define the purpose of the council in diocesan governance and the apostolates of the local church. Statutes must be in conformity with the provisions of the Code of Canon Law. Although it is juridically unnecessary to repeat all the requirements of the Code in the statutes, since the canons are binding whether or not they are in the statutes, the inclusion of certain canons is helpful in alerting the priests on the council of their role and responsibilities in canon law. In this wise, efforts must be made to avoid selective application of the provisions of the Code in preparing or revising statutes. Any statute contrary to an earlier universal law is, moreover, invalid and should be amended or deleted. Finally, the statutes should promote a process of deliberation that is opened to wider consultation, inquiry and feedback so that the council's decisions and recommendations to the bishops are not based on emotion and sentiment but on well discerned facts. This, in the long run, will promote the pastoral care and spiritual welfare of the *portio populo Dei* (c. 369) that makes up the diocese.

We noted that officials from two of the archdioceses surveyed replied that they had no statutes. Some of the statutes that were received are lacking in substance or they contain elements which are not in conformity with the Code. In the light of such findings, this chapter contains recommendations on how the statutes of the presbyteral council

should be drafted or amended in order to foster collaboration between the bishop and the presbyterate.

CHAPTER FOUR

FOSTERING THE COLLABORATIVE ROLE OF THE PRESBYTERAL COUNCIL

Introduction

We have seen in the previous chapters that, based on the nature of the Church, ecclesiastical governance very often involves collaboration. This fact motivated the fathers of the Second Vatican Council to recommend the establishment of new consultative bodies to aid the bishop in diocesan governance. Among these new consultative bodies, the presbyteral council is considered “pre-eminent” and, accordingly, is mandatory for every diocese. The 1983 Code of Canon Law, in canons 495 to 501, provides the fundamental legislation on how this council is expected to play its collaborative role in the governance of a diocese.

A number of authors have acknowledged some of the challenges that this council has been facing in its efforts to exercise its collaborative role in diocesan governance.¹ Some of these challenges are based on the fact that many bishops and priests have either not been well prepared for this type of collaborative governance or have not been well tutored on the significance of this council in the overall governance of the diocese. There are several reasons for this. In some cases, the statutes of the council do not give complete information on the *modus operandi* of the council. In some other instances, the rules regarding election to the council are not followed as prescribed by the Code or the

¹ See ALAGUSELVAN, *Priests' Council*, pp. 11-15, 25-26; CALVO, *Consultation and the Presbyteral Council*, pp. 1-7; NCCB, “United in Service: The Presbyteral Council,” p. 419; see also PROVOST, “Presbyteral Councils and Colleges of Consultors,” p. 195.

statutes of the council. There also may be a lack of courage on the part of some priests to promote and defend the good of the Church before their own individual interests.

Hence, in this chapter, we intend to focus on some of the ways by which bishops and priests can foster the collaborative role of the presbyteral council both in the long and short run. In order to do this, we shall attempt to highlight some elements pertaining to the formation of future priests which may stimulate this collaborative spirit. In this way, already in their seminary formation, future bishops and priests may be prepared, in accordance with the teachings of the Church and canon law, to exercise in a spirit of collaboration whatever office is eventually entrusted to them. We shall also highlight those elements which should characterize diocesan life, the necessary issues which should be included in the statutes in order to foster collaboration in the council and, lastly, those elements which must be put into consideration in the election of council members.

4.1 Initial and Ongoing Formation of Priests

There are two levels to the training of priests: initial and post-ordination formation. This section will make recommendations for fostering a collaborative spirit at both levels, first among seminarians and subsequently among priests. Such formation, we believe, will go a long way to prepare priests for collaborative ministry and in particular for the collaborative role of the presbyteral council.

4.1.1 The Initial Formation of Priests

The initial formation of candidates for the priesthood is their seminary formation prior to priestly ordination. This formation is crucial for the effectiveness of their later

service to the Church as priests. The 2004 Directory for the Pastoral Ministry of Bishops takes note of this important role.

Among diocesan institutions, the bishop should consider the seminary to have primacy of place, and he should make it the object of his most intense and assiduous pastoral care, because it is largely on seminaries that the continuity and fruitfulness of the Church's priestly ministry depends.²

In this section, we shall suggest those elements or issues which we consider important for inclusion in the seminary curriculum in order to foster a spirit of collaboration in the priestly ministry in general and the presbyteral council in particular. We do not intend to discuss the entire seminary curriculum.³ Rather, our focus will be those elements which are necessary to promote collaboration in the ministry of diocesan governance.

4.1.1.1 The Notion of Church as a Communion

It is very important that, from the beginning of their formation, those training for the priesthood are made to understand that they are being initiated into a vocation or life which by nature is "communal."⁴ While this will be obvious to those training for the

² *AS*, no. 84, p. 95.

³ On this matter, see SECOND VATICAN COUNCIL, Decree on the Training of Priests *Optatam totius*, 28 October 1965, in *AAS*, 58 (1966), pp. 713-727, English trans. in FLANNERY I, PP. 707-724 (=OT); CONGREGATION FOR CATHOLIC EDUCATION, *Ratio fundamentalis institutionis sacerdotalis*, 6 January 1970, in *AAS*, 62 (1970), pp. 321-384, English trans. by NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Washington, D.C., 1970 (=1970 *Ratio fundamentalis*); CONGREGATION FOR CATHOLIC EDUCATION, *Ratio fundamentalis institutionis sacerdotalis*, Rome, Typis polyglottis, 1985 (=1985 *Ratio fundamentalis*); JOHN PAUL II, Post Synodal Apostolic Exhortation *Pastores dabo vobis*, 25 March 1992, in *AAS*, 84 (1992), pp. 657-804, English trans. in *Origins*, 21 (1991-1992), pp. 717-759 (=PDV).

⁴ Nobel makes reference to the fact that the preparation for pastoral ministry ought to awaken a sense of ecclesiastical community in those training for the priesthood. See M.A. NOBEL, "Academic Aspects of Priestly Formation in the 1983 Code of Canon Law," in *Studia canonica*, 42 (2008), p. 458. For a more detailed insight into this, read also, M.-A. NOBEL, *Die wissenschaftliche Ausbildung der Priesterkandidaten in der lateinischen Kirche unter besonderer Berücksichtigung der Partikulargesetzgebung in der Bundesrepublik Deutschland*, Hamburg, Kovač Verlag, 2008.

priesthood as members of institutes of consecrated life or societies of apostolic life, it may not be apparent to seminarians preparing for the diocesan priesthood.⁵

In its introductory section, the decree of the Second Vatican Council on the training of priests, *Optatam totius*, points out that its directives regarding the training of priests are meant for all those in formation, whether secular or religious, and of every rite (now called “church *sui iuris*”).⁶ The need to train all future priests to think and act in a spirit of communion is imperative. *Optatam totius* alludes to this.

The student should be thoroughly penetrated with a sense of the Mystery of the Church, which this holy Council has set particularly in relief. Their sense of the Church will find expression in a humble and filial attachment to the Vicar of Christ and, after ordination, in their loyal cooperation with the bishop, in harmony with their fellow-priests. By this means they will bear witness to that unity which draws men to Christ.⁷

Canon 245, §2 of the Code of Canon Law is a similar exhortation on the value of fostering a spirit of communion.

Students are to be formed that, imbued with the love of the Church of Christ, they are bound by humble and filial charity to the Roman Pontiff, the successor of Peter, are attached to their own bishop as faithful co-workers, and work together with their brothers. Through common life in the seminary and through relationships of friendship and of association cultivated with others, they are to be prepared for fraternal union with the diocesan *presbyterium*, whose partners they will be in the service of the Church.⁸

⁵ See NCCB, “United in Service: The Presbyteral Council,” p. 419 on its reference to the spirit of individualism in many priests which seems to hinder the effectiveness of the presbyteral council.

⁶ *OT*, “introduction,” p. 707.

⁷ *Ibid.*, no. 10, p. 714.

⁸ *CIC*, c. 245, §2. “Ita formentur alumni ut, amore Ecclesiae Christi imbuti, Pontifici Romano Petri successori humili et filiali caritate devinciantur, proprio Episcopo tamquam fidei cooperatores adhaereant et sociam cum fratribus operam praestent; per vitam in seminario communem atque per amicitiae coniunctionisque necessitudinem cum aliis exultam praeparentur ad fraternam unionem cum dioecesano presbyterio, cuius in Ecclesiae servitio erunt consortes.”

When future priests are trained to think and act in this way, they will be able to put before their personal interests those things that contribute to the attainment of the will of God here on earth and the salvation of souls, which is the ultimate goal of the Church. This is the kind of disposition required for fruitful collaboration.

The post-synodal apostolic exhortation *Pastores dabo vobis* of Pope John Paul II says that priests must learn to give themselves totally to the Church. “The essential content of this pastoral charity is the gift of self, the total gift of self to the Church, following the example of Christ.”⁹ It is this total gift of self that will dispose priests to put the Church and the salvation of souls first, as the pope states categorically.

The gift of self, which is the source and synthesis of pastoral charity, is directed towards the Church. This was true of Christ who “loved the Church and gave himself up for her” (Eph. 5: 25), and the same must be true for the priest. With pastoral charity, which distinguishes the exercise of the priestly ministry as an *amoris officium*, “the priest, who welcomes the call to ministry, is in a position to make this a loving choice, as a result of which the Church and souls become his first interest, and with this concrete spirituality he becomes capable of loving the universal Church and that part of it entrusted to him with the deep love of husband for his wife.”¹⁰

Pastores dabo vobis considers this spirit to be a necessary virtue for priests and a prerequisite for communion and collaboration. “Among the virtues most necessary for the priestly ministry,” it says, “must be named that disposition of soul by which priests are always ready to seek not their own will, but the will of him who sent them (cf Jn. 4:34; 5: 30; 6: 38).”¹¹

Another value of training future priests to think and act in the spirit of communion is that this disposition will help them to better acknowledge, respect and appreciate the

⁹ *PDV*, no. 23, p. 728.

¹⁰ *Ibid.*

¹¹ *PDV*, no. 28, p. 731.

numerous gifts, talents and charisms with which the Church and its members have been endowed. Such training will help them to support and encourage the faithful to use their own gifts and charisms for building up the body of Christ, the Church. This, in turn, ought to result in less jealousy, envy, and unproductive rivalry. The conciliar decree *Presbyterorum ordinis* comments on this spirit which should characterize the priestly family.

All priests, who are constituted in the order of priesthood by the sacrament of Orders, are bound together by an intimate sacramental brotherhood; but in a special way they form one priestly body in the diocese to which they are attached under their own bishop. For even though they may be assigned different duties, yet they fulfill the one priestly service for people. Indeed all priests are sent to cooperate in the same work. This is true whether the ministry they exercise be parochial or supra-parochial; whether their task be research or teaching, or even if they engage in manual labor and share the lot of the workers, where that appears to be of advantage and has the approval of the competent authority; or finally if they carry out other apostolic works or those directed towards the apostolate. They all contribute to the same purpose, namely the building up of the body of Christ, and this, especially in our times, demands many kinds of duties and fresh adaptations.¹²

Pastores dabo vobis enumerates the various benefits that those training for the priesthood will derive from their awareness of the Church as communion.

Awareness of the Church as “communion” will prepare the candidate for the priesthood to carry out his pastoral work with a community spirit, in heartfelt cooperation with the different members of the Church: priests and bishop, diocesan and religious priests, priests and lay people. Such a cooperation presupposes a knowledge and appreciation of the different gifts and charisms, of the diverse vocations and responsibilities which the Spirit offers and entrusts to the members of Christ’s body. It demands a living and precise consciousness of one’s own identity in the Church and of the identity of others. It demands mutual trust, patience, gentleness and the capacity for understanding and expectation. It

¹² *PO*, no. 8, p. 878. Similarly, *Ad gentes divinitus* states: “Throughout the ages the Holy Spirit makes the entire Church „one in communion and ministry; and provides her with different hierarchical and charismatic gifts,” giving life to ecclesiastical structures, being as it were their soul, and inspiring in the heart of the faithful that same spirit of mission which impelled Christ himself.” SECOND VATICAN COUNCIL, Decree on the Church’s Missionary Activity *Ad gentes divinitus*, 7 December 1965, in *AAS*, 58 (1966), pp. 947-990; English trans. in Flannery1, no. 4, p. 817 (=AG).

finds its root above all in a love for the Church that is deeper than love for self and the group or groups one may belong to.¹³

This consciousness of one's own identity and the identity of others in the Church as well as mutual trust, patience, gentleness and understanding are necessary qualities that future priests need in order to exercise their collaborative role in diocesan governance in general and on the presbyteral council in particular.¹⁴

4.1.1.2 The Notion of Ecclesiastical Governance

Another aspect of seminary formation that should be given emphasis in order to promote the collaborative dimension of the priestly ministry is the proper notion of ecclesiastical governance. There have been several innovations in the style of governance in the Church since the Second Vatican Council.¹⁵ Yet, efforts are often lacking to reflect these innovations in the formation of future priests.¹⁶ Consequently, priests not infrequently have the tendency to import a style of governance found in secular societies into the way they function in their pastoral offices. Hence it is important for those

¹³ *PDI*, no. 59, p. 746.

¹⁴ In his post-synodal apostolic exhortation, *Pastores gregis*, John Paul II calls on bishops to ensure that future priests everywhere receive this form of formation. He says, "The bishop will be particularly concerned to ensure that the spirituality of communion takes root and grows wherever future priests are trained, that is to say, in seminaries and in religious novitiates, in religious houses, in institutes and faculties of theology." *PG*, no. 22, p. 366.

¹⁵ Such innovations include the emphasis on the basic equality in dignity of all the faithful and the focus on the singular nature of the Church's mission which necessitated participatory governance for which the new Code establishes the principles of consent and counsel in the governance of the particular Church and which called for the establishment of consultative bodies in the diocese, making three of these bodies mandatory: the presbyteral council (c. 495), the college of consultors (c. 502), and the finance council (c. 492). See FAHEY, "Diocesan Governance," p. 133.

¹⁶ The National Conference of Catholic Bishops of the USA (now known as the United States Conference of Catholic Bishops) acknowledges that one of the reasons suggested for the ineffectiveness of and negative attitude towards the presbyteral council is "that priests have been so conditioned to a spirit of individualism that they are uneasy with the collegial style of the council." See NCCB, "United in Service: The Presbyteral Council," p. 419.

training for the priesthood to have good canon law courses which will aid them in differentiating ecclesiastical governance from secular governance. Moreover, a leadership role in the *munus regendi* is an important aspect of the ministry of priests who “act in the person of Christ the Head.”¹⁷ After ordination, most priests never have the opportunity to receive formal training in this very important aspect of the priestly ministry, and some of these priests may end up becoming bishops and cardinals without the necessary knowledge.

Seminary courses on ecclesiastical governance, whether in canon law or ecclesiology, should incorporate those elements discussed in chapter 2 in the section on good governance (section 2.5). This can be summed up in ten points.

1. The one who governs in the Church is a servant, not a master.
2. Governance in the Church is for service, not control.
3. The one who governs in the Church is called to seek not his own will but the will of God under the influence of the Holy Spirit.
4. The driving force of the one who governs in the Church is to achieve the ultimate and highest goal of the mystical body of Christ, which is the salvation of souls.
5. The one who governs in the Church must understand that governance is only one aspect of the broad ministries, offices and charisms in the Church.
6. Ecclesiastical governance involves participation and collaboration.
7. Governance does not make one person superior to another; rather there is basic equality of all the faithful in the Church.

¹⁷ BENEDICT XVI, Apostolic letter *motu proprio* on Several Amendments to the Code of Canon Law *Omnium in mentem*, October 26, 2009, in *AAS* 102 (2010), pp. 8-10, art. 2, p. 10. English translation available at http://www.vatican.va/holy_father/benedict_xvi/apost-letters/documents/hf_ben-xvi_apl_20091025_codex-iuris-canonici_en.html .

8. Governance in the Church also demands accountability and transparency at every level.
9. The one who governs has the moral obligation to use the means and resources available, both human and material, to make good decisions and do what is right.
10. The one who governs must heed Church laws and teachings on the role of governance. Church leaders are not monarchs or imperialists who have dominance over others.¹⁸

It is important that these themes be well developed and that those training for the priesthood become fully aware of them before their ordination. This will dispose them to exercise whatever office of governance is entrusted to them in a spirit of collaboration.

4.1.1.3 Training in Human Maturity and the Formation of Conscience

In order to boost a collaborative spirit in the ministry, the initial formation of future priests should devote attention to and emphasis on human maturity and the formation of conscience. *Pastores dabo vobis* makes it clear that this formation in human maturity is the basis of all priestly formation. “In order that his ministry may be humanly as credible and acceptable as possible, it is important that the priest should mold his human personality in such a way that it becomes a bridge and not an obstacle for others

¹⁸ Regarding this final point, the post-synodal apostolic exhortation *Pastores gregis* makes allusion to this saying, “The title of bishop is one of service, not of honour, and therefore a bishop should strive to benefit others rather than to lord it over them.” This is based on Mark 10: 42-45, which is quoted by *Pastores gregis*. “You know that those who are supposed to rule over the gentiles lord it over them, and their great men exercise authority over them. But it shall not be so among you: whoever would be great among you must be your servant, and whoever would be first among you must be slave of all. For the Son of Man also came not to be served but to serve, and to give his life as a ransom for many” (*PG*, no. 43, p. 375).

in their meeting with Jesus Christ the Redeemer of humanity.”¹⁹ This moulding of human personality should be oriented towards achieving certain goals.

Future priests should therefore cultivate a series of human qualities, not only out of proper and due growth and realization of self, but also with a view to the ministry. These qualities are needed for them to be balanced people, strong and free, capable of bearing the weight of pastoral responsibilities. They need to be educated to love the truth, to be loyal, to respect every person, to have a sense of justice, to be true to their word, to be genuinely compassionate, to be men of integrity and especially, to be balanced in judgment and behavior.²⁰

Future priests need to develop a maturity open to sincere dialogue. Closely linked with this is the formation of conscience. The proper formation of conscience helps the future priest to be faithful to his obligations to God and the Church in such a way that he is able to listen to the voice of God which echoes in his heart and always adhere to God’s will.²¹

We pointed out in the introduction to this thesis that one of the challenges that the presbyteral council faces in many places includes the way that it is perceived by the bishop and/or priests, namely, that it is merely “window dressing” or simply the rubber stamp for the decisions of the bishop. But this was not what the Fathers of the Second Vatican Council had intended. If this distorted image of the presbyteral council is going to change, then future priests and future bishops must be trained to learn the necessary skills and develop desirable virtues: to cultivate mature and responsible freedom, love the truth, be loyal, respect every person, have a sense of justice, be true to their words, be men of integrity, be balanced in judgment and behaviour, be open to sincere dialogue, become accustomed to listening to the voice of God and adhere with love and constancy

¹⁹ *PDV*, no. 43, pp. 738-739.

²⁰ *Ibid.*, p. 739.

²¹ *PDV*, no. 44, p. 739.

to God's will. This is the kind of formation that will help the future priest differentiate sincere or pious obedience to a constituted authority from false obedience rooted in fear and the insecurity of losing one's office or position. This aspect of the formation of future priests must be taken seriously in order to help them develop the spirit that is required for mature, sincere, courageous, intelligent and fruitful collaboration in their priestly ministry in general and on the presbyteral council in particular.

It would be valuable to highlight in a revised *Ratio fundamentalis institutionis sacerdotalis* the need for formation for fruitful collaboration in the ministry.²² In his address to the participants in a plenary assembly of the Congregation for Catholic Education, Benedict XVI identified an important element which such a reform must have, namely, "to highlight the importance of the proper correlation between the various dimensions of priestly formation in the perspective of Church-communion, following the indications of Vatican Council II."²³ This is precisely our focus: to draw attention to those elements which will help to realize the dreams of the fathers of the Second Vatican Council for a style of diocesan governance that is participatory and collaborative.

4.1.2 Ongoing Formation of Priests

While the initial formation of future priests is very important in arousing the spirit of collaboration, it alone is not sufficient. This spirit of collaboration has to be continually nourished. This is particularly important when such collaboration requires

²² BENEDICT XVI made reference to the revision of this document (which was first issued in 1970 and updated in 1985) in his address to the participants at the plenary assembly of the Congregation for Catholic Education on 21 January 2008. See Zenith News of 21 January 2008 at <http://www.zenit.org/artcle-21563?l=english>.

²³ Ibid.

counsel from the priests, whether it is required by law or by the nature of the situation.²⁴ Ongoing formation implies that a priest should always be open to the process of formation. Theologically, this is based on the fact that every priest is called to follow Christ, which is an ongoing journey. Therefore, permanent formation is necessary to discern and follow the constant call or will of God;²⁵ and it will “help the priest to be and act as a priest in the spirit and style of Jesus the good shepherd.”²⁶ Ongoing formation should strive to deepen and increase the priest’s appreciation of the Church as a mystery, communion and mission,²⁷ and this will help him to live out his priestly ministry in a spirit of collaboration.²⁸

Ongoing formation may take a variety of forms. It could be in the form of meetings of the bishop with the priests during which a short study of specific theological, canonical, or pastoral issues takes place. It could also be in the form of spiritual recollections, retreats, workshops and seminars. There is also a more formal means by which priests are sent to universities and institutions of higher learning to specialize in

²⁴ “Secular culture and even sacred science are advancing at an unprecedented rate in our time. Priests are therefore urged to adequate and continuous perfection of their knowledge of things divine and human. In this way they will prepare themselves to enter with greater advantage into dialogue with their contemporaries” (*PO*, no. 19, p. 897).

²⁵ *PDV*, no. 70, p. 751.

²⁶ *Ibid.*, no. 73, p. 753.

²⁷ *Ibid.*

²⁸ “Mystery” reminds the priest to continually open himself to the Spirit of God who leads the Church. “Communion” reminds, awakens, deepens, and constantly calls him to co-responsibility in the common mission of salvation with esteem for the charisms which the Spirit gives to believers for the building up of the Church. “Mission” requires from him a continuous sense of commitment, seriousness, faithfulness and courage in his daily response to God’s call. See *PDV*, nn. 73-75, pp. 753-754.

different fields so as to enhance their ministry and the good of the diocese and universal Church.

The ongoing formation of priests will be a more effective instrument of deepening the spirit of collaboration in the presbyterium when the following suggestions are implemented.

1. A principal focus of workshops, seminars, and the like should be on what it means concretely to imitate the life of Christ in the life of the priest. The aim is thus spiritual and practical as well as intellectual, with an avoidance of any kind of negativity.
2. The formal post-ordination training of priests should be organized in a systematic manner. The basis for choosing priests for such training should be their aptitude and charisms on the one hand and the needs of the diocese on the other, not on favouritism or other ulterior motives.
3. Ideally, the further training of priests should always be an opportunity to increase their love for their particular Church and promote the wellbeing of the diocese in return for their formation. In this way they will be better disposed to use their talents and resources to promote the wellbeing of the diocese when they have the opportunity to serve in the presbyteral council.

4.2 The Bishop's Style of Governance

The initial and ongoing formation of priests plays a great role in inculcating in them the spirit of communion and collaboration. Such collaboration, however, can only thrive in an atmosphere where things are done in accordance with the law and basic values like sincerity, transparency, justice, and respect for the rights and talents of others,

qualities that serve to support the realization of the Church as a communion. It is the principal role of the diocesan bishop, in cooperation with his co-workers the priests, to whom the pastoral care of the diocese has been entrusted, to ensure that such an enabling atmosphere for collaboration is fostered in the diocese. In this section we shall discuss some of the ways by which the style of governance of the diocesan bishop, as the head of the diocese, can foster this atmosphere, particularly with respect to the manner with which he relates to the priests and the other faithful. These are openness to sincere dialogue, transparency, accountability and modelling a collaborative style of governance.

4.2.1 Openness to Sincere Dialogue

The conciliar decree *Christus Dominus*, number 28 describes the diocesan clergy as one priestly body and one family of which the bishop is the father. As the head of the diocesan family, the style of governance of the diocesan bishop plays a great role in ensuring the spirit of collaboration in the presbyterium. Hence the 2004 Directory for the Pastoral Ministry of Bishops says, “[s]o the bishop should model his style of governance both on divine wisdom, which teaches him to consider the eternal dimension of things, and also on evangelical prudence [...]”²⁹ *Christus Dominus* is more elaborate on this point.

The relations between the bishop and the diocesan clergy should be based before all else on supernatural charity, so that their unity of purpose will make their pastoral activity more effective. Therefore, to ensure an increasingly effective apostolate, the bishop should be willing to engage in dialogue with his priests, individually and collectively, not merely occasionally, but if possible, regularly.³⁰

²⁹ *AS*, no. 41, p. 54.

³⁰ *CD*, no. 28, p. 580.

It is therefore necessary for the diocesan bishop to send a very clear signal to his priests that he is open to sincere dialogue. When the bishop himself models a style of diocesan governance that is open to dialogue, this will likely stimulate the spirit of collaboration also in the presbyterium and among those designated to serve on the presbyteral council.

4.2.2 Transparency

The bishop should also ensure that his style of governance is as transparent as is humanly possible. Hence he must avoid those things which cast doubt on his integrity. With regard to this, the pope teaches in *Pastores gregis* that the bishop's governance will be pastorally effective when it is hinged on or rooted in a moral authority.

All that the bishop says and does must reveal the authority of Christ's word and his way of acting. Without the authoritativeness of his lived holiness—his personal witness of faith, hope and love—only with difficulty could a bishop's governance be accepted by the People of God as a manifestation of the active presence of Christ in his Church.³¹

To ensure this transparency and personal integrity, the bishop must strive to avoid all vanity, favouritism, insincerity, manipulation, deception, bribery and other forms of corruption.³² Otherwise, the office of the bishop “ends up being reduced to a solely functional role and, tragically, it loses credibility before the clergy and the faithful.”³³ When the bishop loses personal integrity, he also loses the confidence of his priests, and they lose all enthusiasm for collaborating with him.

³¹ *PG*, no. 43, p. 375.

³² See *AS*, no. 45, p. 58; also no. 216, p. 246.

³³ *PG*, no. 11, p. 361.

4.2.3 Accountability

Due to their esteem for the nature of the episcopal office and respect for the person of the bishop, the clergy and other faithful have in the past generally hesitated to question the activities of their bishops, but this “question not” attitude is now gradually changing as many bishops in recent times have been held to account for their wrongdoing or negligence. R. Kaslyn says that “[a]ll the Christian faithful have the obligation to help meet the financial needs of the Church (see c. 222, §1), but the bishops have a concomitant responsibility to assure the faithful that such financial donations are utilized in the best way possible.”³⁴ Such accountability, he says, will boost the involvement of the faithful in collaborating with the bishop in the governance of the diocese.³⁵ Accountability is certainly a necessary priority in the administration of temporal goods, but it is also to be valued in all areas of ecclesiastical governance. This accountability may be manifested in a variety of ways, mainly to do with open reporting and communication of diocesan initiatives and activities. The bishop who models a style of governance characterized by accountability is likely to have better results in getting the pastors and other Church leaders also to hold themselves accountable for their administration. The presbyteral council could play a role in this respect by studying ways and making suggestions for the accountability of all officeholders in the diocese.

³⁴ R.J. KASLYN, “Accountability of Diocesan Bishops: A Significant Aspect of Ecclesial Communion,” in *The Jurist* 67 (2007), p. 138 (=KASLYN, “Accountability of Diocesan Bishops”).

³⁵ *Ibid.*

4.2.4 Modelling a Collaborative Style of Governance

The Directory on the Pastoral Ministry of Bishops states that “the bishop should avoid giving the impression that the [presbyteral] council lacks purpose, and he should chair the meetings in such a way that all its members can freely express their opinions.”³⁶ Indeed, bishops in some places have given the false impression that the presbyteral council and the other consultative bodies in the diocese do not matter and that they can do without them, but this attitude is not in keeping with canon law. Canons 381, §1 and 391, §1, while acknowledging the power of the diocesan bishop, also makes it clear that such power is limited by the law. So the bishop can never be above the law which regulates his office. The bishop must avoid conveying an attitude that he is wiser, more intelligent and better than every other person in the diocese, an attitude which could lead to neglecting to seek the counsel of others. Instead the bishop should be humble enough to respect others, listen to them and learn from them. If he has these qualities, then the priests and the other faithful will be well disposed to collaborate with him in the pastoral governance of the diocese. In the same manner, the members of the presbyteral council will more likely do their best to support him in the governance of the diocese.

4.3 The Role of Priests in Fostering Collaboration

Priests also have a very important role to play in fostering the spirit of collaboration in the diocese. First, we shall consider some important values that the priests themselves need to have in their relationship with the bishop and their fellow priests in order to foster a collaborative atmosphere. Second, we shall discuss how the members of the presbyteral council can nourish this collaborative spirit in their activities.

³⁶ See *AS*, no. 182, p. 200.

4.3.1 Values Promoting Collaboration

The acquisition and development by priests of three key values, we believe, will go a long way in promoting collaboration among them and with their bishop. These are a communitarian approach to ministry, the spirit of shared responsibility in the affairs of the diocese and good will in electing council members.

4.3.1.1 Communitarian Approach to Ministry

“The ordained ministry has a radical „communitarian form“ and can only be carried out as „a collective work“.”³⁷ It is important that priests never lose sight of the fact that, as members of the presbyterium, they work for the same cause, namely, the building up of the body of Christ. In order to realize that common cause, they must collectively and individually make conscious efforts to promote among themselves those qualities and style of living which are capable of deepening the spirit of communion, cooperation and collaboration in the presbyterium. Such qualities and values include sincerity, selflessness, concern for the needs of others, justice, and respect. These values can be concretely put into action through gatherings and associations, friendly visits, spiritual sharing, etc. This style of diocesan life is necessary to fortify the foundation for collaboration laid during the seminary formation.

4.3.1.2 Shared Responsibility in the Affairs of the Diocese

Priests are co-workers with their bishop and co-responsible for the welfare of the people of God whom they serve. Vatican II and the present Code have further reinforced this point by making it mandatory for a diocesan bishop to establish the presbyteral council and the college of consultors and by making it equally compulsory for the bishop

³⁷ *PDV*, no. 17, p. 726.

to consult these bodies and even request consent from the college of consultors in some instances before validly carrying out some administrative acts. Indeed, “[c]onsultation is a form of collaboration and coresponsibility.”³⁸ Hence, priests must realize that they have the juridic and moral obligation to take their own share of this responsibility seriously. Unless they have this understanding, their collaboration in the governance of the diocese will yield minimal fruits.³⁹

If priests fail to take their own share of this responsibility seriously either by not discerning properly before giving counsel or by giving consent when they really are not convinced that they should, their collaboration becomes a stumbling block to the pastoral welfare of the diocese. Hence, in order to boost their collaborative role, priests must be aware and take seriously the fact that they are co-responsible with their bishop in promoting the welfare of the diocese and take their own share of that responsibility seriously.

4.3.1.3 Good Will in Electing Members

The prescription of canon 497, 1°, which mandates priests to freely elect about half of the council members, is intended to have a council which is capable of providing independent advice or counsel to the bishop without bias.⁴⁰ This being the case, priests must take time for proper discernment before electing their representatives to the council.

³⁸ NCCB, “United in Service: The Presbyteral Council,” p. 417.

³⁹ “Bishops and presbyters share a responsibility for the welfare of the people of God they serve. This responsibility differs in keeping with their respective offices, but neither can serve in isolation from the other.” PROVOST, “Presbyteral Councils and Colleges of Consultors,” p. 208.

⁴⁰ See READ, “Particular Churches and their Groupings,” p. 276.

In that discernment, they should consider whether the candidates they prefer have the wisdom, knowledge, dedication and experience to fulfil the demands of that office. Only by electing capable representatives can the priests prevent the presbyteral council from becoming mere “window dressing” or a “rubber stamp” for the predetermined decisions of the bishop.

4.3.2 The Manner of Conducting Council Activities

The manner by which the members conduct their council activities is very significant in fostering the collaborative role of this council. Hence it is important that the council members have certain qualities. These qualities, in particular, are respect for their bishop and the laws governing the council and the ability to assert their proper role.

4.3.2.1 Respect for the Bishop and the Laws Governing the Council

Council members must respect their bishop as the head of the diocese and the president of the council and acknowledge his rights and prerogatives as prescribed by law. They must also respect the laws governing the council such as maintaining confidentiality about certain issues and ensuring that they do not divulge those issues on which they have been consulted before the bishop makes such issues public. This is necessary for the bishop to build up trust in the council members and foster a collaborative atmosphere.

4.3.2.2 Asserting the Council’s Proper Role

The council should never see itself as an opposition group to the bishop: “[t]he language of confrontation, power tactics and intimidation are out of place in the council.”⁴¹ Still, “the council must avoid a passive posture whereby it fails to express the

⁴¹ NCCB, “United in Service: The Presbyteral Council,” pp. 418-419.

concerns and experiences of priests.”⁴² The members of the presbyteral council must be sufficiently assertive of their proper juridic role and responsibilities in the governance of the diocese. This is especially the case when they perceive that they are being regarded as a body that is mere “window dressing.” The members must realize that they have the moral obligation and juridic duty to give counsel to the bishop, even if that may mean disagreeing with his plans and endangering their relationship with him and facing the fear of losing their offices or some other intimidation. By insisting that the law be observed, the presbyteral council can restore the integrity that it may have lost in the eyes of the priests and truly be an organ that justly and sincerely collaborates with the bishop in promoting the welfare of the diocese.

4.4 Nature and Content of the Statutes of the Council

In the previous chapter we discussed extensively the various issues regarding the statutes of the presbyteral council. In this section we shall discuss why we consider the statutes to be important instruments in fostering the collaborative role of the presbyteral council in diocesan governance. Thereafter, we shall highlight those elements which should necessarily form part of the statutes in order to make this governing document an effective instrument of fostering the collaborative role of the presbyteral council in diocesan governance.

⁴² Ibid., p. 419.

4.4.1 Instruments Fostering the Collaborative Role

Canon 496 says categorically that “[t]he presbyteral council is to have its own statutes.”⁴³ Good statutes are necessary for the effectiveness of the presbyteral council’s organization, planning, operation and achievements. Good statutes will also foster the collaborative role of the council.

Canon 94 defines statutes as the ordinances of an aggregate of persons or of things that define its purpose, constitution, governance and manner of acting.⁴⁴ Statutes, like laws, must be given in written form.⁴⁵ With particular reference to the presbyteral council, canon 496 says that the statutes must be approved by the diocesan bishop. For the presbyteral council to be an effective instrument of collaboration in the diocese, it must have statutes, that is, a written governing document which clearly defines its nature, purpose, constitution, governance and manner of acting. The statutes regulate the activities of the council and help the council more readily to achieve the goals for which it was established. Good statutes will enhance the collaborative role of the presbyteral council in diocesan governance.

⁴³ *CIC*, c. 496. “Consilium presbyterale habeat propria statuta”

⁴⁴ In civil law, by contrast, a “statute” is defined as “a law passed by a legislative body and formally placed on record in a written or printed form.” BOLANDER et al. (eds.), *The New Lexicon Webster’s Encyclopedic Dictionary*, p. 970.

⁴⁵ We are emphasizing this point because in some of the responses to our request for statutes, certain archdioceses claimed that their statutes only exist in oral form. This is a clear indication, as it is also obvious in our own individual experiences, that these dioceses do not have statutes. “Oral statutes” are really the customs of cc. 23-28, not the written statutes of c. 94.

4.4.2 Important Elements to Be Included

In order for the statutes to be effective instruments of fostering the collaborative role of the presbyteral council in diocesan governance, such statutes should clearly define its nature, purpose, establishment, composition and tenure of members, and *modus operandi*.

4.4.2.1 Nature and Purpose

The statutes should have a clear description of the nature of the council, that is, a group of priests which represent the presbyterium and which acts as a consultative body to the bishop in accordance with the law. In treating its representative nature, the statutes should be clear on how this representation is to be achieved and should highlight the various groups or categories which should be represented as much as possible in the council. Such categories or groups should include: the diverse ethnic groups and/or regions of the diocese (deaneries); the age and condition of priests (junior, senior, active or retired); the various ministries in the diocese (including education and chaplaincies); and the diocesan and religious priests as well as the non-incardinated priests who have canonical appointments in the diocese. The statutes should indicate that the council is strictly consultative by nature and should highlight the principles that regulate consultative bodies.⁴⁶

The statutes should make it clear that the consultative role of the council is its very purpose, that is, it is an organ that assists the diocesan bishop in governance through counsel in order to collectively promote the welfare of the diocese. The statutes should highlight those issues in which the universal law obliges the bishop to consult the

⁴⁶ See section 2.1.4 for some of these principles.

council,⁴⁷ and then the statutes may add other important matters (as much as may be anticipated) for which, by particular law, the bishop's consultation of the council is required or requested.⁴⁸

4.4.2.2 Establishment, Membership, Tenure

As a governing document, it is important for the statutes to state how the council is to be brought into existence. Such a statement or declaration should include: (1) the need for the bishop to issue a decree of convocation stating the time and method for election in accordance with the law; (2) the necessity for an actual election, the regulations of such election and the need to publish the names of those elected in an official document of the diocese; (3) the right of the bishop to freely appoint other members and the juridic limitation of such right; (4) the manner of designating the *ex officio* members; (5) the need for the bishop to issue a decree of formal constitution prior to the first meeting of the council.⁴⁹

It is very important for the statutes to be clear on how the members of the council are to be designated in accordance with canon 497; how to achieve the ratio whereby about half of the council members are freely elected by the priests themselves; those office holders who should be *ex officio* members and the number of priests that the

⁴⁷ See section 2.5.3 for a highlight of these issues.

⁴⁸ An example of this would be in the case of a diocese that has an investment which is the main source of income for the diocese; such an investment could be an industry which produces and supplies liturgical products and in which most of the parishes in the diocese also have shares. In order to protect the status of such an investment and ensure transparency in its management, the statutes of the presbyteral council could request the bishop to consult the council before making major decisions that will affect such investment.

⁴⁹ See section 2.2.2 for details.

bishop could freely appoint in such a way that the *ex officio* and appointed members do not exceed half of the total members of the council.

It is also very important, in accordance with canon 501, §1, that the statutes be clear on the term of office. Accordingly, the statutes should state the number of years for which council members are to serve and how the council can be renewed in whole or in part within a five-year period.⁵⁰

4.4.2.3 *Modus operandi*

In order to achieve efficiency, it is important that the statutes regulate the *modus operandi* of the council. Such regulations should clearly define issues like: the number of meetings to be held annually, dates, times and venues of such meetings (where possible); possible offices and committees of the council; issues regarding the preparation of agenda for meeting, the process of deliberation in the council, the number of members to constitute a quorum for the council meetings, the nature of issues that may require confidentiality, and the method of making public the acts of the council. Since the present Code and other Church documents have considered the presbyteral council as a necessary organ of governance in the diocese, its organization must be taken seriously. Hence, “[t]he meetings should be run professionally. Disorganized meetings promote apathy and give the impression that the council does not take its responsibilities seriously.”⁵¹

Well articulated statutes put the presbyteral council in a better position to collaborate with the bishop in the governance of the diocese. Hence it is important that these elements be taken note of in the revision of statutes or in the preparation of future statutes for the presbyteral council.

⁵⁰ See section 3.2.9 for examples on how this can be done.

⁵¹ NCCB, “United in Service: The Presbyteral Council,” p. 420.

4.5 Preparation for and Conduct of Election

The prescription of canon 497, 1° requiring that about half of the council members be elected by the priests is a significant way towards achieving a just, fair, and fruitful collaboration with the bishop. So that a fair representation is achieved and the potential for collaboration is increased, it is most important to prepare the priests for the election and to establish sound procedures for it. To this end, we offer several recommendations: the organization of a seminar on the collaborative role of the presbyteral council, giving advance notice of the date of election, and the necessity of secret balloting as the method of election.

4.5.1 Seminar on the Collaborative Role

If the presbyteral council is actually to become the pre-eminent consultative body in the diocese, and if the role of this council in diocesan governance is actually to be considered important in achieving the pastoral welfare of Christ's faithful in the diocese, then it would be worthwhile that, before electing priests to the council, the electors become aware of the nature, role and significance of this council and the qualities they should seek in priests whom they wish to elect to the council. Similarly, those who wish to be elected should also know the nature, purpose, and significance of the council and consider whether they have the requisite qualities to fulfil this role before accepting the election.

To achieve such awareness, it would be valuable to organize a seminar on the collaborative role of the presbyteral council in diocesan governance for all the priests in the diocese in order to inform them of what the Church expects from this council. This

will help the electors to choose those priests who are better suited and disposed for this role and also help those who are eventually elected to discharge their responsibilities with sincerity, efficiency, conviction and persistence. Some of the issues treated in this thesis could form part of what should be discussed in such a seminar.

4.5.2 Advance Notice of Election

It has been known to occur in some places that, when priests gather for a meeting or retreat, they are told without prior notice that they have to elect members for the presbyteral council. This practice is altogether inappropriate, and it would result in an invalid election if more than one-third of the electors were not present (c. 166, §3). Rather, priests should be given advance notice of the date of the election (cf. c. 166, §1). In such an advance notice, the names of those priests who are eligible should be included. Also, the names of those office holders who would necessarily be *ex officio* members should be identified as not having passive voice. Such advance notice should also state the method of election to be adopted.

4.5.3 Method of Election

The success of any election depends a great deal on the procedures to be observed. In order that the electors may freely, without fear or favour, elect those they are convinced can carry out this role, there must be a secret ballot as required by canon law (c. 172, §1, 2°).

Conclusion

The Code of Canon Law provides for a governance structure in the particular Church that is necessarily participatory and collaborative. Consequently, the presbyteral council is by law mandatory for every diocese as an organ of governance that is called to collaborate with the bishop in promoting the pastoral welfare of all Christ's faithful in the diocese. In order to help the presbyteral council to fulfil this role in the most effective and efficient way, we have elicited key elements which both in the long run and in the short run can facilitate the council in achieving its objectives.

Among these elements, we mentioned the need to form future priests to think and act in the spirit of communion by acknowledging the charisms of others, putting the common good before their selfish interests and opening themselves to the will of God under the guidance of the Holy Spirit. We also emphasized the need for them to have a clear understanding of the collaborative nature of ecclesiastical governance to prepare them to make mature, responsible and intelligent decisions. The spirit of collaboration in Church governance should be nourished through the ongoing formation of priests with respect to those themes or disciplines that will help to deepen their awareness of the need for communion and collaboration.

There is also an ongoing need for a lifestyle or ethos in the diocese that is open to collaboration, one characterized by sincere dialogue, transparency, trust, respect, concern for others and a spirit of shared responsibility. Also, the lifestyle of the council members should be characterized by respect for the bishop as the head of the diocese, respect for the rules governing the council and respect for one another. Similarly, the council members must be willing to assert their role and acknowledge that they have the juridic

and moral responsibility to ensure that the pastoral welfare of all the faithful in the diocese is promoted.

To assist the council in achieving these attitudes and goals that yield fruitful collaboration, it is vital to have good statutes. While the statutes will in some ways be unique to each presbyteral council according to the needs and circumstances of the diocese, all statutes should necessarily include common aspects like the nature and purpose of the council, the manner of constituting the council, the selection and tenure of members, and the *modus operandi* of the council. Finally, the manner of preparing the priests for the election of the council members and the conduct of the actual election are also important in helping achieve an independent-minded council which is free of bias and therefore able to serve the interest of all in the diocese.

These elements, put together and lived out in the diocesan life, will be a great boost for collaboration between the bishop and the priests in general and between the bishop and the presbyteral council members in particular. In this way the pastoral welfare of all the faithful in the diocese will be most effectively promoted in accordance with the dreams of the fathers of the Second Vatican Council and the prescriptions of canon law.

GENERAL CONCLUSION

An initial goal of this thesis was to understand the mind of the Church in mandating the presbyteral council as a collaborative organ in diocesan administration with the responsibility of advising the bishop in the governance of the diocese. A preliminary answer to this question can be given on the basis of several fundamental conclusions.

1. Collaboration in Church governance is evidenced in the earliest traditions of the Church as witnessed by the New Testament and patristic writings.
2. Collaboration in Church governance necessarily flows from the nature of the Church as communion since every member of the Church is called to exercise his or her own share in the building up of the body of Christ.
3. The Second Vatican Council acknowledged a theological foundation for collaboration between bishop and priests: those in the episcopal and presbyteral orders are joined by the single bond of their ordination by which they share, although in different degrees, in the one priesthood and ministry of Jesus Christ.
4. The manner through which those in sacred orders are called to collaborate in ecclesial governance is regulated by canon law in accordance with the teachings of the Church's Magisterium.

These historical facts and fundamental theological principles provide the basis for the canonical institute of the presbyteral council, which is regulated in the Latin Code in canons 495-501 (*CCEO*, cc. 264-270). The 1983 Code of Canon Law prescribes three mandatory collaborative and consultative institutions in each diocese: the presbyteral council, the college of consultors and the finance council (cc. 495, §1, 502, §1 and 492,

§1). Among these three mandatory consultative bodies, the presbyteral council is pre-eminent. In canon 495, §1, the presbyteral council is defined as a body of priests which represents the presbyterium of the diocese and which, like a senate of the bishop, aids the bishop in the governance of the diocese according to the norm of law in order that the pastoral welfare of the portion of the People of God entrusted to the bishop may be promoted as effectively as possible. Every diocesan bishop is expected to establish the presbyteral council within one year of taking canonical possession of the diocese (c. 501, §2). About half of the total members of the council are to be freely elected by the priests themselves. Some others are to be designated *ex officio* members by virtue of the office they hold. The bishop may freely appoint some others as long as the *ex officio* and appointed members do not far exceed half of the total members (c. 497).

The purpose of the presbyteral council is to assist the diocesan bishop in accordance with the law in the governance of the diocese by providing him with counsel, so that the pastoral welfare of all the faithful in the diocese will be most effectively promoted (c. 495, §1). The presbyteral council is an institutional expression of who the priests fundamentally are in their relation to the diocesan bishop, namely, his co-workers, co-operators and collaborators. The council is a concrete sign of priestly communion, “a privileged place of communication and collaboration between the presbyterate and the diocesan bishop.”¹ The presbyteral council is an organ of governance that is morally and juridically co-responsible with the diocesan bishop in ensuring the pastoral welfare of all the faithful in the diocese. The importance of this organ in diocesan governance is reinforced by certain canons requiring the bishop to consult it and by the general norm of

¹ NCCB, “United in Service: The Presbyteral Council,” p. 415.

law whereby the bishop's act would be invalid if he does not hear from this body in those cases (c. 127, §2, 2°).

The goal of the presbyteral council is to ensure good governance in the particular Church as an organization whose members study and propose solutions to diocesan issues and through its discussions and findings contribute to the initial process of making particular law. The means through which the presbyteral council is called to promote good governance is by providing wise and intelligent counsel to the bishop that best promotes the good of souls, the diocese and the universal Church. The presbyteral council is primarily a consultative body, but the diocesan bishop needs its consent in cases expressly defined by law; the law in this context includes particular law or even the statutes of the council (c. 500, §2). The presbyteral council is co-responsible with the diocesan bishop in the pastoral governance of the diocese because the diocesan bishop has both the juridical and moral obligation to request counsel from this body before validly placing some juridical acts. For their part, the council members have both the juridical and moral obligation to give the bishop wise and selfless counsel in order to help him make good decisions.

Each council must have its own statutes, approved by the diocesan bishop, which define clearly its purpose, constitution, governance and manner of acting. Before giving his approval, the bishop should ensure that the statutes conform to the norms laid down by the conference of bishops (c. 496).

It pertains to the diocesan bishop to convoke the council, to preside over it and to determine the questions to be treated by it or to receive proposals from the members. The council may not validly convoke itself or act without the diocesan bishop (c. 500, §§ 1

and 3). When the see is vacant, the council is dissolved *ipso iure*, and its functions devolve to the college of consultors (c. 501, §2).

The canons on the presbyteral council provide a secure basis for its establishment and operation. Yet, some three decades after the promulgation of the 1983 Code, we might well ask whether they are adequate for today's global Church. In particular, we believe that certain questions call for continuing research and reflection in view of an eventual reform of the Code.

1. Are there additional ways by which the presbyteral council can function more effectively for the good of the Church that should be included in the Code?
2. Is the consensus model an acceptable manner of proceeding when a vote is not strictly required?²
3. Should the universal law determine what is to be done if an advisory body like the presbyteral council has a unanimous opinion on an issue and the superior decides to act contrary to their opinion?
4. Should the Code establish a penalty for a superior who culpably places an act without hearing those who must be consulted for the validity of the act?
5. Should the universal law specify cases in which the diocesan bishop is to request the consent of the presbyteral council rather than leaving this entirely to regulation by particular law?
6. Should the universal law require that the bishop consult the presbyteral council in more instances, particularly in affairs of greater importance, especially those pertaining to the presbyterate, the apostolate, and diocesan administration?

² See *UT*, Part II, Section II, no. 1.

The central question addressed in this thesis is: what are the factors that can enhance the collaborative role of the presbyteral council in the governance of a diocese? On the basis of our research and analysis of Church teachings, the law, and the authors, we offer the following suggestions.

1. Seminary courses on ecclesiastical governance should incorporate those elements which characterize good governance as taught by the magisterium of the Church. Seminarians preparing for the priesthood should be formed to appreciate the significance and implications of being ordained into a Church which by nature is a communion. They are to be incardinated into a diocesan family and share with the bishop and the other members of the presbyterium the one priesthood and ministry of Christ. It is a Church in which all the faithful are called to cooperate in the building up of the body of Christ by using their gifts, talents, and positions for the common good while also respecting and appreciating the gifts and talents of others. The seminarian who interiorizes a sound ecclesiology of communion will acquire the dispositions necessary for a collaborative ministry. To foster the spirit of collaboration in the ministry, seminary formators should also pay particular attention to training in human maturity and the formation of conscience.

2. The ongoing formation of priests, whether informal or formal, should provide opportunities to deepen the spirit of collaboration in priests. Such continuing formation should be well structured to avoid undue bitterness from some sections of the diocese or from certain individual priests and should focus on elements that help to build up the diocesan family in the spirit of communion and collaboration.

3. The bishop's style of governance may either hinder or promote collaboration in the diocese. Hence it is necessary that his style of governance be open to sincere dialogue, transparency, and accountability and that he possess those human qualities that engender trust and respect in his counsellors and co-workers.

4. For their part, the priests must hold dear those qualities that deepen the spirit of communion, cooperation and collaboration, especially sincerity, selflessness, concern for the needs of others, justice and respect. They should also have the spirit of shared responsibility in the affairs of the diocese as well as the good will to elect capable priests to serve on the presbyteral council.

5. Those priests who are designated members of the council must respect the bishop as the president of the council and also respect the laws governing the council. They must try to avoid confrontation on the one hand and passivity on the other. They must prudently yet courageously and firmly assert their proper juridical role. This is necessary to restore the integrity of the council and to remove the bad image that the council has in some places as being mere "window dressing."

6. Besides the common elements necessary in all statutes, it would be worthwhile for the statutes of each presbyteral council to determine some other ways, which may be peculiar to the individual diocese, through which the collaborative role of the council could be exercised for the benefit of the faithful and the diocese. The statutes should create the awareness of the need for collaboration and foster its realization in the governance of the diocese. They should promote a process of deliberation open to wider consultation, inquiry and feedback so that the member's planning, decisions and recommendations are well considered.

7. Priests should be properly prepared for the election of the council members. Such preparation may include a seminar which helps to create awareness regarding the nature, role and significance of the council in the governance of the diocese. Priests should also be given advance notice of the date of the election, and it must be conducted by secret ballot.

If organized properly, the presbyteral council can be an effective force in the diocese, but good organisation in itself is insufficient. The presbyteral council must be made to understand its proper role in the decision-making process, and the bishop must understand what it means to collaborate. The council whose members know that the bishop is willing to listen and appreciate their advice is more likely to work productively and even with enthusiasm. When the bishop is obliged to seek counsel before making his decision, he must not appear as if his mind is already made up before the discussion takes place. While it may be worthwhile for him to propose some course of action, it must be seen to be tentative until the council has had the opportunity to give its counsel. Otherwise, the council may be demoralized, resulting in the opposition or indifference of the members and the priests at large.

Consultation may seem cumbersome but, in the long run, it is a prudent and effective part of diocesan administration. By engaging people from different fields of specialization and backgrounds in the sharing of opinions, issues are analyzed from different perspectives, and this helps in discerning the best possible solution. The emphasis of the Second Vatican Council and the present Code for diocesan governance that is modeled after the Church communion and which therefore is cooperative and collaborative should not be approached with a pre-Vatican II mentality. When the bishop

is perceived as operating from a monarchical model, consultation with the presbyteral council will be perceived by the priests as optional, unimportant or even threatening to them if they really speak their mind. For their part, the priests must avoid importing a secular democratic model into council proceedings. Consultation and collaboration does not mean that those consulted make the decisions but that they collaborate in the decision-making process. Their focus should be on achieving good decisions which best promote the welfare of the faithful, the will of God under the guidance of the Holy Spirit and the salvation of souls.

The optimal atmosphere for fruitful consultation is that which is free from any selfish thinking by which either the bishop or the counsellors or any individual priests maliciously seek an upper hand. Rather, all those concerned should equally accept the blame or failure that comes from making a bad decision as well as the praise and success that come from having made a good decision. When both bishop and presbyters know their proper roles and exercise effectively a spirit of genuine collaboration and co-responsibility, the results will be positive not only for their own morale and relationship but also for the common good of the entire diocese.

BIBLIOGRAPHY

1. Sources

Acta et decreta Concilii Plenarii Americae Latinae, in Urbe celebrate Anno Domini MDCCCXCIX, Rome, Typis Vaticanis, 1902.

Acta et decreta Concilii Plenarii Australasiae, habiti apud Sydney, A.D. 1885, a Sancta Sede recognita, Sydney, F. Cunningham & Co., 1887.

Acta et decreta Concilii Plenarii Baltimorensis III, Baltimore, John Murphy, 1886.

Acta et decreta Concilii Plenarii Quebecensis Primi, Anno Domini MCMIX, Quebec, Typis l'Action Social Limitée, 1912.

Acta et decreta Concilii Provincialis Manilani I, in Urbe Manila celebrati Anno Domini MDCCCVII, Rome, Typis Polyglottis Vaticanis, 1910.

Acta et documenta Concilio oecumenico Vaticano II apparando, Series I (Antepreparatoria), Appendix ad Volumen II, "Analyticus conspectus consiliorum ac votorum quae ab Episcopis et Praelatis data sunt," Vatican City, Typis Polyglottis Vaticanis, 1960.

The Apostolical Constitutions or Canons of the Apostles in Coptic, with English translation by H. TATTAM, London, Oriental Translation Fund, 1848.

BENEDICT XVI, Apostolic letter *motu proprio* on Several Amendments to the Code of Canon Law *Omnium in mentem*, October 26, 2009, in *AAS* 102 (2010), pp. 8-10; English translation available at http://www.vatican.va/holy_father/benedict_xvi/apost-letters/documents/hf_ben-xvi_apl_20091025_codex-iuris-canonici_en.html.

_____, Apostolic Constitution *Anglicanorum coetibus*, 4 November 2009, in *AAS*, 101 (2009), pp. 985-990; English translation in *Origins*, 39 (2009), pp. 388-390.

The Canons and Decrees of the Council of Trent, rendered into English by H.J. SCHROEDER, Rockford, Illinois, Tan Books and Publishers Inc., 1941.

The Code of Canon Law, new revised English translation 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, HarperCollins, 1997.

Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP.II promulgatus, fontium annotatione auctus, Libreria editrice Vaticana, 1995; English translation,

- Code of Canons of the Eastern Churches*, Latin-English Edition, New English Translation, prepared under the auspices of the CLSA, Washington, DC, CLSA, 2001.
- Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus*, Vatican City, Libreria editrice Vaticana, 1983; English translation, *Code of Canon Law*, Latin-English edition, New English Translation, prepared under the auspices of CLSA, Washington, DC, CLSA, 1998.
- Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus*, Città del Vaticano, Libreria editrice Vaticana, 1917; English translation by E.N. Peters, *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001.
- Codicis iuris canonici fontes*, P. GASPARRI et J. SERÉDI (eds.), Rome, Typis polyglottis Vaticanis, 1926-1939, 9 vols.
- Concilium Vaticanum, *Acta Synodalia Sacrosancti Concilii oecumenici Vaticani Secundi*, cura et studio archivi Concilii oecumenici Vaticani, Vatican City, Typis polyglottis Vaticanis, 1970-1983, 29 vols.
- CONGREGATION FOR BISHOPS, *Directory for the Pastoral Ministry of Bishops*, 22 February 2004, Vatican City, Libreria editrice Vaticana, 2004.
- CONGREGATION FOR CATHOLIC EDUCATION, *Ratio fundamentalis institutionis sacerdotalis*, 6 January 1970, in *AAS*, 62 (1970), pp. 321-384, English translation by NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Washington, D.C., 1970.
- _____, *Ratio fundamentalis institutionis sacerdotalis*, 19 March 1985, Rome, Typis polyglottis, 1985.
- _____, *Directives Concerning the Preparation of Seminary Educators*, 4 November 1993, Rome, Libreria editrice Vaticana, 1993.
- CONGREGATION FOR THE CLERGY, *Directory on the Ministry and Life of Priests*, 13 March 1994, Vatican City, Libreria editrice Vaticana, 1994.
- _____, Interdicasterial Instruction *Ecclesia de mysterio*, 15 August 1997, in *AAS*, 89 (1997), pp. 852-877; English translation in *Origins* 27 (1997-1998).
- CONGREGATION FOR THE DOCTRINE OF FAITH, *Complementary Norms for the Apostolic Constitution Anglicanorum coetibus*, 4 November 2009, in *Origins*, 39 (2009), pp. 390-392.

- The Didascalía apostolorum*, rendered into English by S. ALISTAIR, Turnhout, Belgium, Brepols Publishers, 2009.
- DOMO, E. (ed.), *Acta et decreta Sacrorum Conciliorum recentiorum (Collectio Lacensis)*, Friburgi, Herder, vol. 3, 1870-1890.
- EASTON, B.S. (ed.), *The Apostolic Tradition of Hippolytus*, Hamden, CT, Archon Books, 1962.
- EPISCOPAL CONFERENCE OF BELGIUM, "Particular Legislation: Statutes for Presbyteral Councils," in *DocCath*, 84 (1987), pp. 276-277, English translation in *CLD*, vol. 11, 1991, p. 70.
- JOHN PAUL II, Apostolic Constitution *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75 (1983), pp. vi-xiv; English translation, *Code of Canon Law: Latin-English Edition*, prepared under the auspices of the CLSA, Washington, CLSA, 1999, pp. xxvii-xxxii.
- _____, Apostolic Constitution *Pastor bonus*, 28 June 1988, in *AAS*, 80 (1988), pp. 841-930; English translation in E. CAPARROS, M. THÉRIAULT and J. THORN (eds.), *Code of Canon Law Annotated*, 2nd rev. ed., Montréal, Wilson & Lafleur Limitée, 2004, pp. 683-734.
- _____, Encyclical Letter *Redemptoris missio*, 7 December 1990, in *AAS*, 83 (1991), pp. 249-340; English translation in *Origins*, 20 (1990-1991), pp. 541-568.
- _____, Post Synodal Apostolic Exhortation *Pastores dabo vobis*, 25 March 1992, in *AAS*, 84 (1992), pp. 657-804; English translation in *Origins*, 21 (1991-1992), pp. 717-759.
- _____, Encyclical Letter *Ut unum sint*, 25 May 1995, in *AAS* 87 (1995), pp. 921-982; English translation in *Origins*, 25 (1995-1996), pp. 49-72.
- _____, Post-Synodal Apostolic Exhortation *Ecclesia in Africa*, 15 September 1995, in *AAS*, 88 (1996), pp. 5-85; English translation in *Origins*, 25 (1995-1996), pp. 249-276.
- _____, Apostolic Letter *Novo millennio ineunte*, 6 January 2001, in *AAS*, 93 (2001), pp. 266-309; English translation in *Origins*, 30 (2000-2001), pp. 489-508.
- _____, Post- Synodal Apostolic Exhortation *Pastores gregis*, 16 October 2003, in *AAS*, 96 (2004), pp. 825-924; English translation in *Origins*, 33 (2003-2004), pp. 353-392.
- PAUL VI, Apostolic Letter *motu proprio, Pastorale munus*, 30 November 1963, in *AAS*, 56 (1964), pp. 5-12; English translation in *CLD*, vol. 6, pp. 370-378.

PAUL VI, Apostolic Letter *motu proprio Ecclesiae sanctae* I, 6 August 1966, in *AAS*, 58 (1966), pp. 757-787; English translation in FLANNERY1, pp. 591-610.

_____, Apostolic Letter *motu proprio Firma in traditione*, 13 June 1974, in *AAS*, 66 (1974), pp. 308-311; English translation in *CLD*, vol. 8, pp. 531-533.

PONTIFICAL COUNCIL FOR THE AUTHENTIC INTERPRETATION OF LEGISLATIVE TEXTS, *Responsa ad proposita dubia*, 11 July 1984, in *AAS*, 76 (1984), p. 747ff.

SACRED CONGREGATION FOR THE CLERGY, Circular Letter on Presbyteral Councils, *Presbyteri sacra*, 11 April 1970, in *AAS*, 62 (1970), pp. 459-465; English translation in *CLD* 7 (1968-1972), pp. 383-390.

_____, Circular Letter on Pastoral Councils, *Omnes Christifideles*, 25 January 1973, in *CLD*, vol. 8, pp. 287-288.

SACRED CONGREGATION FOR BISHOPS, *Directory on the Pastoral Ministry of Bishops Ecclesiae imago*, 22 February 1973, Typis polyglottis Vaticanis, 1973.

SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 5-71; English translation in A. FLANNERY (gen. ed.), *Vatican Council II: The Conciliar and Post-Conciliar Documents*, vol. 1, new rev. ed. (=FLANNERY1), Northport, NY, Costello Pub. Co., 1996, pp. 350-426.

_____, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*, 28 October 1965, in *AAS*, 58 (1966), pp. 673-701; English translation in FLANNERY1, pp. 564-590.

_____, Decree on the Training of Priests *Optatam totius*, 28 October 1965, in *AAS*, 58 (1966), pp. 713-727; English translation in FLANNERY1, pp. 707-724.

_____, Decree on the Church's Missionary Activity *Ad gentes divinitus*, 7 December 1965, in *AAS*, 58 (1966), pp. 947-990; English translation in FLANNERY1, pp. 813-856.

_____, Decree on the Ministry and Life of Priests *Presbyterorum ordinis*, 7 December 1965, in *AAS*, 58 (1966), pp. 991-1024, English translation in FLANNERY1, pp. 863-902.

_____, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in *AAS*, 58 (1966), pp. 1025-1120; English translation in FLANNERY1, pp. 903-1001.

SYNOD OF BISHOPS, document *Ultimis temporibus*, in *AAS*, 63 (1971), pp. 897-922, promulgated by COUNCIL FOR THE PUBLIC AFFAIRS OF THE CHURCH, rescript *ex audientia Sanctissimi*, 30 November 1971, in *AAS*, 63 (1971), pp. 897-922; English translation in *FLANNERY2*, pp. 672-694.

2. Statutes of Presbyteral Councils from Select North American Archdioceses

Canada

ARCHDIOCESE DE GATINEAU-HULL, "Statuts du conseil presbytéral," archdiocesan archives, Gatineau Hull, 2003.

ARCHDIOCESE OF GROUARD-MCLENNAN, "Statutes and Regulations of the Presbyteral Council and College of Consultors," archdiocesan archives, Grouard-McLennan, n.d.

ARCHDIOCESE OF HALIFAX, "Constitution of the Council of Priests of Halifax," archdiocesan archives, Halifax, n.d.

ARCHDIOCESE DE MONTRÉAL, "Constitutions du conseil presbytéral," archdiocesan archives, Montréal, 2005.

ARCHDIOCESE OF OTTAWA, "Constitution (Council of Priests)," archdiocesan archives, Ottawa, 2005.

DIOCÈSE DE QUÉBEC, "Conseil presbytéral," diocesan archives, Québec, 1998.

ARCHDIOCESE DE RIMOUSKI, "Conseil presbytéral de Rimouski (Constitutions et Règlements)," archdiocesan archives, Rimouski, 2004.

ARCHDIOCESE OF ST. JOHN'S, "Statutes of the Council of Priests," archdiocesan archives, St. John's, Newfoundland, 1997.

ARCHDIOCESE OF TORONTO, "Constitution of the Council of Priests," archdiocesan archives, Toronto, 1992.

ARCHDIOCESE OF VANCOUVER, "The Statutes of the Presbyteral Council," archdiocesan archives, Vancouver, 2003.

ARCHDIOCESE OF WINNIPEG, "Council of Priests Statutes," archdiocesan archives, Winnipeg, 1997.

United States

ARCHDIOCESE OF ANCHORAGE, "Statutes of the Council of Priests," archdiocesan archives, Anchorage, n.d.

ARCHDIOCESE OF BALTIMORE, "Statutes for the Presbyteral Council," archdiocesan archives, Baltimore, 2008.

ARCHDIOCESE OF BOSTON, "Statutes: Presbyteral Council," archdiocesan archives, Boston, 2003.

ARCHDIOCESE OF CHICAGO, "Presbyteral Council Constitution and Bylaws," archdiocesan archives, Chicago, 2010.

ARCHDIOCESE OF CINCINNATI, "Constitution and By-Laws for the Presbyteral Council," archdiocesan archives, Cincinnati, 2002.

ARCHDIOCESE OF DENVER, "Statutes of the Presbyteral Council," archdiocesan archives, Denver, n.d.

ARCHDIOCESE OF GALVESTON-HOUSTON, "Presbyteral Council (Statutes)," archdiocesan archives, Galveston-Houston, 2006.

ARCHDIOCESE OF HARTFORD, "Statutes of the Presbyteral Council," archdiocesan archives, Hartford, 2004.

ARCHDIOCESE OF LOS ANGELES, "Statutes of the Council of Priests," archdiocesan archives, Los Angeles, n.d.

ARCHDIOCESE OF MIAMI, "Presbyteral Council of the Archdiocese of Miami (Statutes)," archdiocesan archives, Miami, 2006.

ARCHDIOCESE OF NEW ORLEANS, "Constitution and By-Laws (Presbyteral Council)," archdiocesan archives, New Orleans, n.d.

ARCHDIOCESE OF NEW YORK, "The Statutes of the Presbyteral Council," archdiocesan archives, New York, n.d.

ARCHDIOCESE OF NEWARK, "Constitution and Bylaws of the Presbyteral Council," archdiocesan archives, 2009.

ARCHDIOCESE OF OKLAHOMA CITY, "Constitution (The Council of Priests)," archdiocesan archives, Oklahoma City, 2007.

- ARCHDIOCESE OF OMAHA, *Archdiocesan Pastoral Policies Handbook*, Omaha, 2008.
- ARCHDIOCESE OF PHILADELPHIA, "Council of Priests Statutes," archdiocesan archives, Philadelphia, 1996.
- ARCHDIOCESE OF SEATTLE, "Presbyteral Council Constitution," archdiocesan archives, Seattle, 2000.
- ARCHDIOCESE OF ST. LOUIS, "Statutes Council of Priests," archdiocesan archives, St. Louis, 2007.

3. Books

- ABBO, J.A and J.D. HANNAN (eds.), *The Sacred Canons: A Concise Presentation of the Current Disciplinary Norms of the Church*, 2 vols., Saint Louis, B. Herder Book Co., 1952.
- ACHEAMPONG, G., *The Presbyteral Council in the New Code of Canon Law 1983 with Particular Reference to Ghana*, Rome, Urbaniana University, 1987.
- ALAGUSELVAN, A., *Priests' Council a Representative Body of the Presbyterium in the Governance of the Diocese: Juridical Study of Canon 495§1 and Its Relevance in Today's Context* (Extractum), Rome, Pontificia Universitas Urbaniana, 1998.
- ASANBE, J.A., *The Authority of the Diocesan Bishop and the Decisions of the Conference of Bishops in the Light of Recent Studies: An Appraisal of C. 455,§4*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1996.
- ATADANA, J., *The Role of the Diocesan Bishop as the Chief Administrator of His Diocese*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1994.
- ATTRIDGE, H. (ed.), *The Apostolic Tradition*, Minneapolis, Fortress Press, 2002.
- AYRINHAC, H.A., *Constitution of the Church in the New Code of Canon Law*, New York, Longmans, Green and Co., 1930.
- BARRETT, J., *A Comparative Study of the Councils of Baltimore and the Code of Canon Law*, Canon Law Studies, no. 83, Washington, DC, Catholic University of America, 1932.
- BAUS, K., *Handbook of Church History: From the Apostolic Community to Constantine*, vol. 1, translated from the third revised ed. of H. JEDIN and J. DOLAN (eds.), *Handbuch der Kirchengeschichte*, Freiburg, Herder, 1965.

- BAWYN, A.E., *Discovering the Administrative Power belonging to the Diocesan Bishop: The Use and Implications of Power and Governing in Book II and I of the 1983 Code of Canon Law*, JCD diss., Leuven, Katholieke Universiteit, 2000.
- BEAL, J.P., J.A. CORIDEN and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by The Canon Law Society of America, New York / Mahwah, NJ, Paulist Press, 2000.
- BOUSCAREN, T.L., A. ELLIS, and F.N. KORTH (eds.), *Canon Law: A Text and Commentary*, 4th rev. ed., Milwaukee, Bruce Publishing Co., 1963.
- BOWERS, J.R., *Episcopal Power of Governance in the Diocesan Church: From the 1917 Code of Canon Law to the Present*, Canon Law Studies, no. 535, Washington, DC, Catholic University of America, 1990.
- BROWN, F.F., *Priests in Council*, New York, Andrews and McMeel, 1979.
- BRUCE, F.F., *New Testament History*, New York, Doubleday & Company, Inc., 1971.
- CALVO, R.R.U., *Consultation and the Presbyteral Council: New Emphasis in the ratio legis*, JCD diss., Rome, Pontificia Studiorum Universitas, A.S. Thoma Aq. in Urbe, 1986.
- CANADIAN CONFERENCE OF CATHOLIC BISHOPS, *Canadian Catholic Church Directory*, Montréal, Novalis Publishing Inc., 2010.
- CAPARROS, E., M. THÉRIAULT and J. THORN (eds.), *Code of Canon Law Annotated*, 2nd ed. Revised and updated ed. of the 6th Spanish-language ed., prepared under the responsibility of the Instituto Martín de Azpilcueta, Montréal, Wilson & Lafleur Limitée, 2004.
- CATTANEO, A., *Il presbiterio della Chiesa particolare. Questioni canonistiche ed ecclesiologiche nei documenti del magistero e nel dibattito postconciliaire*, Milano Giuffrè, 1993.
- CHIRAMEL, J. and K. BHARANIKULANGARA (eds.), *The Code of Canons of the Eastern Churches: A Study and Interpretation*, Always, St. Thomas Academy for Reseach, 1992.
- CHULLIKATT, F.A., *Consultatio praevia in CIC 1983: A Historical-Juridical Study of Canon 127*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1989.
- CLARKE, G.W., *Ancient Christian Writers: The Letters of St. Cyprian*, vol. 1, New York, Newman Press, 1984.

- CLYDE, J., *Presbyteral Colleges in the Early Christian Writings*, Rome, Urbaniana University, 1968.
- CORECCO, E., *Canon Law and communio: Writings on the Constitutional Law of the Church*, Libreria editrice Vaticana, 1999.
- CORIDEN, J.A., *Who Decides for the Church?* Hartford, Canon Law Society of America, 1971.
- CORIDEN, J.A., T.J. GREEN and D. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, commissioned by the CLSA, New York, Paulist Press, 1985.
- CURRAN, C. and G. DYER (eds.), *Shared Responsibility in the Local Church*, Chicago, National Federation of Priests' Councils, 1970.
- DIX, G. (ed.), *The Apostolic Tradition of St. Hippolytus*, vol. 1, London, Society for Promoting Christian Knowledge, 1937.
- DONNA, R.B., *The Fathers of the Church: Saint Cyprian Letters (1-81)*, Washington, D.C., Catholic University of America Press, 1964.
- DOUGLAS, J.D. et al. (eds.), *The Concise Dictionary of the Christian Tradition*, Grand Rapids, Michigan, Zondervan Publishing House, 1989.
- DOYLE, T., *Rights and Responsibilities: A Catholic Guide to the New Code of Canon Law*, New York, Pueblo, 1983.
- DRANE, J., *Authority and Institution*, Milwaukee, The Bruce Publishing Company, 1969.
- FARIS, J.D., *The Eastern Catholic Churches: Constitution and Governance according to the Code of Canons of the Eastern Churches*, New York, Saint Maron Publications, 1992.
- FRANCIS, J.S., *Obedience to the Bishop by the Diocesan Priest in the 1983 Code of Canon Law*, Canon Law Studies, no. 533, Washington, DC, Catholic University of America, 1990.
- GNIERI, R., *Bishop-Priest Relationship: Relation and Collaboration between Bishop and Diocesan Clergy in Their Pastoral Ministry according to Canon 384*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1993.
- GREEN T.J., *Manual for Bishops*, Washington, DC, National Conference of Catholic Bishops, 1983.

- GUILDAY, P., *A History of the Councils of Baltimore*, New York, Arno Press and the New York Times, 1969.
- HAMER, J., *The Church Is a Communion*, London, G. Chapman, 1964.
- HANNON, J., *The College of Consultors and the Exercise of Ecclesial Authority*, JCD diss., Ottawa, Saint Paul University, 1986.
- HEMBERGER, R.E., "Consultation in the 1983 Code of Canon Law," JCL thesis [unpublished], Washington, The Catholic University of America, 1985.
- HERTLING, L., *Communion: Church and Papacy in Early Christianity*, Jared Wick (trans.), Chicago, Loyola University Press, 1972.
- HUELS, J.M., *Empowerment for Ministry*, New York, Paulist Press, 2003.
- INCITTI, G., *Il consiglio presbyterale*, Bologna, Edizioni Doheniane Bologana, 1997.
- JOHNSON, J., *The Power of Governance of the Diocesan Bishops in the Latin and Oriental Codes: A Comparative Study*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1993.
- KANG EUN, R., *Consiglio presbiterale delle diocesi in Corea alla luce del nuovo Code di Diritto Canonico*, Pars dissertationis ad lauream in Facultate Juris Canonici, Rome, Pontifical Università Urbaniana, 1986.
- KARAMBAL, S.S., *Structures of Decision Making in the Local Church*, Bangalore, Theological Publications in India, 1994.
- KASLYN, R.J., *Canonical Communion: A Reading of Canon 209,§1*, JCD diss., Ottawa, Saint Paul University, 1992.
- KILINSKI, K.K. and J.C. WOFFORD, *Organization and Leadership in the Church*, Grand Rapids, Zondervan, 1973.
- KINNEY, J.F., *The Juridic Condition of the People of God: Their Fundamental Rights and Obligations in the Church*, Rome, Officium Libri Catholici, 1972.
- KLELOTKA, P.J., *Diocesan Consultors*, Canon Law Studies, no. 8, Washington, DC, Catholic University of America, 1920.
- KPENU, T.A., *Le conseil presbytéral, organe de communion de l'évêque avec son presbyterium: canon 495 §1* (extract), Rome, Pontificia Universitas Urbaniana, 1998.

- LICARI, J.R., *The Diocese as a Particular Church according to the 1983 Code of Canon Law*, JCD diss., Ottawa, Saint Paul University, 1989.
- LIGHTFOOT, J.B., *The Apostolic Fathers*, 2nd ed., London, Macmillan and Co., 1893.
- LOBO, J., *Shared Responsibility in the Governance of the Particular Church: A Juridico-Pastoral Study of the Presbyterium's Participation in the Governance of the Diocese, Especially through the Presbyteral Council and the College of Consultors*, JCD diss., Rome, Pontifical Urban University, 1988.
- MALLET, J. (ed.), *The Ministry of Governance*, Washington, DC, CLSA, 1986.
- MAOKO, L.N., *Le Conseil presbyteral comme organe de coresponsabilité dans le gouvernement de diocèse: Perspectives canoniques pour le diocèse de Lolo*, JCD diss., Rome, Pontificia Universitas Urbaniana, 2006.
- MARTÍNEZ TÁRRAGA, M., *El Consejo presbiteral, senado del obispo: Una coresponsabilidad posible en la Iglesia dioecésana*, Madrid, Propaganda Popular Católica, 1973.
- MARZOA, Á., J. MIRAS and R. RODRÍGUEZ-OCAÑA (eds.), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, 2004.
- MAYNARD, T., *The Story of American Catholicism*, New York, The Macmillan Company, 1941.
- MENEZES, V.M., *The Executive Power of the Diocesan Bishop according to the 1983 Code of Canon Law*, JCD diss., Ottawa, Saint Paul University, 2003.
- MIGNE, J., *Patrologiae cursus completus*, Series Latina, vol. 221, Paris, Excudabat Migne, 1844-1964, no. 162.
- MILLER, W., *The Juridical Configuration of the Diocesan Consultors with Particular Reference to the Church of the United States of America: An Historical-Juridical Study*, Excerpts of JCD Diss., Rome, Pontificia Universitas Lateranensis, 1975.
- MUTABAZI, A., *Le Conseil presbyteral et le Conseil diocesain de pastorale dans le nouveau Code. Evolution doctrinale, contenu de la nouvelle normative et critique prospective*, Pars dissertationis ad Lauream in Iure Canonico, Pontificia Università Urbaniana, Roma, 1987.
- NOBEL, M.-A., *Die wissenschaftliche Ausbildung der Priesterkandidaten in der lateinischen Kirche unter besonderer Berücksichtigung der Partikulargesetzgebung in der Bundesrepublik Deutschland*, Hamburg, Kovac Verlag, 2008.

- NWABUDE, E.O., *An Encyclopedic Dictionary of Canon Law of the Western (CIC 1983) and Eastern (CCEO 1990) Churches*, Onitsha, Africana First Publishers Limited, 2008.
- O'KEEFE, L.J., *The Enabling Ministry of the Pastor in the Building of Ecclesial Communion: An Interpretation of Canon 529 §2*, JCD diss., Rome, Pontificia Studiorum Universitas, 1988.
- ÖRSY, L., *Theology and Canon Law: New Horizons for Legislation and Interpretation*, Collegeville, Liturgical Press, 1992.
- PADAMADAN, F., *The Dogmatic Constitution on the Church Lumen gentium on the Power of Governance of a Diocesan Bishop in the New Code*, JCD diss., Rome, Pontificia Universitas Urbaniana, 1995.
- PAGÉ, R., *Les Églises particulières*, Montréal, Les Éditions Paulines, 1985.
- PAPROCKI, T.J., *Vindication and Defence of the Rights of the Christian Faithful through Administrative Recourse in the Local Church*, JCD diss., Rome, Pontificia Universitas Gregoriana, 1991.
- PAYÁ ANDRÉS, M., *Los Consejos presbiterales y pastorales en España*, Valencia, Facultad de Teología San Vicente Ferrer, 1979.
- RENKEN, J.A., *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada*, New York, St. Pauls, 2009.
- _____, *Particular Churches and the Authority Established in Them, Commentary on Canons 368-430*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011.
- _____, *Particular Churches: Their Internal Ordering, Commentary on Canons 460-572*, Ottawa, Faculty of Canon Law, Saint Paul University, 2011.
- RHYNNE, X., *John Paul's Extraordinary Synod: A Collegial Achievement*, Wilmington, Michael Glazier, 1986.
- ROSSI, B.A., *Priests' Senates*, Rome, Pontificia Universitas Gregoriana, 1979.
- SCHNEIDER, F.J., *Obedience to the Bishop by the Diocesan Priest in the 1983 Code of Canon Law*, Canon Law Studies, no. 533, Washington, DC, Catholic University of America, 1990.
- SCHOEDEL, W.R., *Ignatius of Antioch: A Commentary on the Letters of Ignatius of Antioch*, Philadelphia, Fortress Press, 1985.

- SCHROEDER, H.J., *Disciplinary Degrees of the General Councils: Text, Translation and Commentary*, London, B. Herder Book Co., 1937.
- SHEA, J., *History of the Catholic Church in the United States*, vol. 3, New York, The Mershon Company Press, 1890.
- SHEEHY, G. et al. (eds.), *The Code of Canon Law, Letter & Spirit: A Practical Guide to the Code of Canon Law*, prepared by THE CANON LAW SOCIETY OF GREAT BRITAIN AND IRELAND in association with THE CANADIAN CANON LAW SOCIETY, Dublin, Veritas, 1995.
- SMITH, S.B., *Elements of Ecclesiastical Law*, vol. 1, New York, Benziger Brothers, 1887.
- SMOLNIK, D., *La funzione consultiva del Consiglio presbiterale*, JCD diss., Rome, Pontificium Athenaeum Sanctae Crucis, 1996.
- SULLIVAN, F., *From Apostles to Bishops: The Development of the Episcopacy in the Early Church*, New York, The Newman Press, 2001.
- TIERNEY, B., *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism*, New York, Brill, 1998.
- VILLAMIL, H.R., *Legislation on the College of Consultors: Evolution and Commentary on Some Aspects*, JCD diss., Rome, Pontificium Athenaeum Sanctae Crucis, 1996.
- WACE, H. and P. SCHAFF (eds.), *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church*, vol. 6: *St. Jerome: Letters and Select Works*, Oxford, James Parker and Company, 1890-1900.
- WRENN, L.G., *Authentic Interpretations on the 1983 Code*, Washington, CLSA, 1993.
- YANUS, G.D., *The Metropolitan as Collaborator in the Mission of the Particular Church*, JCD diss., Rome, Pontificia Studiorum Universitas, 1990.
- ZENZ, J.P., *Spirituality of Obedience for Diocesan Priests in Vatican II*, Ann Arbor, MI, University Microfilms International, 1984.

4. Articles

- ALBERIGO, G., "Rappresentatività e partecipazione nella Chiesa locale," in *Studi pastorali*, 3 (1969), pp. 173-199.

- ALBERIGO, G., "Ecclesiology and Democracy: Convergences and Divergences," in *Concilium*, 5 (1992), pp. 14-26.
- ANANDARAYAR, A., "The Priests' Council or Senate in the New Code of Canon Law," in *Indian Theological Studies*, 20 (1983), pp. 253- 262.
- ARMSTRONG, C., "Alienation of Church Property and Consultation," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, pp. 421-422.
- ARRIETA, J.I., "El régimen jurídico de los Consejos presbiteral y pastoral," in *Ius Canonicum*, 21 (1981), pp. 567-605.
- _____, "Órganos de participactón y corresponsabilidad en la Iglesia diocesana," in *Ius Canonicum* 34 (1994), pp. 553-593.
- ASSELIN, A., "Consultation in the Parish: A Needless Burden, a Necessary Evil, or a Worthwhile Opportunity?" in V.G. D'SOUZA (ed.), *In the Service of Truth and Justice: Festschrift in Honour of Prof. Augustine Mendonça, Professor Emeritus*, Bangalore, Centre of Canon Law Studies, 2008, pp. 109-138.
- AUSTIN, R., "The Particular Church and the Universal Church in the 1983 Code of Canon Law," in *Studia canonica*, 22 (1988), pp. 339-357.
- BARBERENA, T.G., "Collegiality at Diocesan Level: The Western Presbyterate," P. Burns (trans.), in *Concilium*, 1 (1965), pp. 11-18.
- BASTNAGEL, C., "The Requirements of Consultation for Valid Action," in *The Jurist*, 9 (1949), p. 377ff.
- BETTETINI, A., "Le conseil presbytéral," in *Année Canonique*, 15 (1971), pp. 83-95.
- BÉVENOT, M., "Clement of Rome in Irenaeus' Succession-List," in *Journal of Theological Studies*, 17 (1966), pp. 98 ff.
- BIANCHI, P., "Gli statuti del Consiglio presbiterale," in *Quaderni di Diritto Ecclesiale*, 8 (1995), pp. 72-93.
- BINZER, J.R. and J.K. WILLIAM , "Alienation and Acts of Extraordinary Administration," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Alexandria, CLSA, 2006, pp. 337-339.
- BLANK, J., "The Concept of Power in the Church: New Testament Perspectives," in *Concilium*, 197 (1988), pp. 3-12.

- BOCQUET, A., "Du presbyterium au conseil presbytéral," in *Revue de Droit Canonique*, 20 (1970), pp. 98-108.
- BONICELLI, C., "Il consiglio presbiterale: Ruolo, funzioni, attività dopo il nuovo Codice di Diritto Canonico," in *Orientamenti Pastoralis*, 33 (1985), pp. 49-58.
- BOUDINHON, A., "Circa c. 105, 1°, An nullus semper sit actus superioris non petito consilio?" in *Ius Pontificium*, 8 (1928), pp. 29-35.
- BOURKE, M.M., "Collegial Decision Making in the New Testament," in *The Jurist*, 31 (1971), pp. 1-13.
- BRENNAN, P., "Collaboration, Consultation, and Communion between Bishops and Priests: Structures and Issues," in *CLSA Proceedings*, 68 (2006), pp. 87-109.
- CARRETTO, G., "Il consiglio presbiterale. Espressione giuridica e realizzazione postconciliare del presbiterio diocesano," in *Apollinaris*, 44 (1971), pp. 230-269 and 423-455.
- CARZANIGA, G., "Il consiglio presbiterale diocesano," in *Orientamenti Pastoralis* 31 (1983), pp. 76-79.
- CASTILLO LARA, R.J., "La communion ecclésiale dans le nouveau Code de Droit Canonique," in *Communicationes*, 15 (1984), pp. 246-266.
- CATTANEO, A., "Il presbiterio della Chiesa particolare," in *Ius Ecclesiae*, 5 (1993), pp. 497-529.
- CLARK, M., "The Pastoral Exercise of Authority," in *New Theology Review*, 10 (1997), pp. 6-17.
- CLIFFORD, C.E., "Kenosis and the Path to Communion," in *The Jurist*, 64 (2004), pp. 21-34.
- COCCOPALMERIO, F., "De persona iuridica iuxta schemas Codicis novi," in *Periodica*, 70 (1981), pp. 382-383.
- CORIDEN, J.A., "The Holy Spirit and Church Governance," in *The Jurist*, 66 (2006), pp. 339-373.
- _____, "The Rights of Parishes," in *Studia canonica*, 28 (1994), pp. 293-309.
- COUGHLIN, J., "Canonical Equity," in *Studia canonica*, 30 (1996), pp. 403-435.
- CUSACK, B., "The Diocesan Synod: A Teachable Moment in the Life of the Local Church," in *The Jurist*, 63 (2003), pp. 70-84.

- CUSACK, B., "Power of Governance: Theoretical and Practical Considerations," in *CLSA Proceedings*, 52 (1990), pp. 187-205.
- DANEELS, F., "De dioecesanis corresponsabilitatis organis," in *Periodica*, 74 (1985), pp. 301-324.
- DE PAOLIS, V., "Communio in novo codice iuris," in *Periodica de re morali, canonica, liturgica*, 77 (1988), pp. 521-552.
- DI MATTIA, G., "I consigli presbiterali: qualificazione e collocazione ecclesiologico-giuridica," in *Pontificium Consilium de Legum Textibus Interpretandis* (a cura di) Ius in vita et in missione Ecclesiae, Acta Symposii internationalis Iuris Canonici occurrente X anniversario promulgationis Codicis Iuris Canonici, diebus 19-24 aprilis 1993 in Civitate Vaticana celebrati, Vaticana, Libreria Editrice, 1994, pp. 407-426.
- D'ONORIO, J.B., "De dioecesanis corresponsabilitatis organis," in *Periodica*, 74 (1985), pp. 301-321.
- D'SOUZA, V.G., "Elected Members in the Council of Priests: A Number Game," in *Studies in Church Law*, 5 (2009), pp. 485-491.
- _____, "General Principles Governing the Administration of Temporal Goods of the Church," in V.G. D'SOUZA (ed.), *In the Service of Truth and Justice: Festschrift in Honour of Prof. Augustine Mendonça, Professor Emeritus*, Bangalore, Saint Peter's Pontifical Institute, 2008, pp. 467-498.
- DUFFY, E., "Episcopal Conferences in the Context of Communion: Notes on the American Experience," in *The Jurist*, 64 (2004), pp. 137-167.
- _____, "Presbyteral Collegiality: Precedents and Horizons," in *The Jurist*, 69 (2009), pp. 116-154.
- ENO, R.B., "Shared Responsibility in the Early Church," in *Chicago Studies*, 9 (1970), pp. 129-141.
- ERCOLE, G., "The Presbyteral Colleges in the Early Church," E.A. CARPENTER (trans.), in *Concilium*, 7 (1966), pp. 12-18.
- FAHEY, M.A., "Diocesan Governance in Modern Catholic Theology and in the 1983 Code of Canon Law," in J.K. MALLET (ed.), *The Ministry of Governance*, Washington, DC, CLSA, 1986, pp. 121-139.

- FAHEY, M.A., "Ecclesial Community as Communion," in J.H. PROVOST (ed.), *The Church as Communion*, Permanent Seminar Studies, no. 1., Washington, DC, CLSA, 1984, pp. 4-23.
- FELICIANI, G., "Chiese particolari. Struttura, organi di partecipazione, raggruppamenti," in *Digesto delle discipline pubblicistiche*, 3 (1989), pp. 20-26.
- FIGUEROA, R., "El consejo presbiteral," in *Efemérides Mexicana*, 5 (1987), pp. 270-295.
- FINNEGAN, J., "The Detroit Conference: A Call to Action as a Model of Church Governance," in *CLSA Proceedings*, 39 (1977), pp. 10-18.
- FRUGÉ, D.J., "Diocesan Taxation of Parishes in the United States, Sign of *communio* or Source of Tension?" in *CLSA Proceedings*, 60 (1998), pp. 68-81.
- GAUTHIER, A., "Juridical Persons in the *Code of Canon Law*," in *Studia canonica*, 25 (1991), pp. 77-92.
- GHIRLANDA, G., "De notione communionis hierarchicae iuxta Vaticanum secundum," in *Periodica*, 70 (1981), pp. 41-68.
- _____, "Universal, Particular and Local Churches at the Second Vatican Council and in the New Code of Canon Law," in R. LATOURELLE (ed.), *Vatican II: Assessment and Perspectives: Twenty-five Years after (1962-1987)*, L. Wearne (trans.), vol. 2, New York, Paulist Press, 1989, pp. 233-271.
- GIANNINI, F., "La Chiesa particolare e gli organismi di partecipazione," in *Apollinaris*, 56 (1983), pp. 414-527.
- GILCHRIST, J., "Cathedral Chapter," in *New Catholic Encyclopaedia*, vol. III, New York, McGraw-Hill Book Company, 1967, pp. 249-250.
- GIULIANI, G., "Il consiglio presbyterale e il consiglio pastorale nel nuovo Codex," in *Giustizia e servizio*, Napoli (1984), pp. 159-171.
- GONZÁLEZ DE CARDEDAL, O., "Development of a Theology of the Local Church from the First to the Second Vatican Council," in *The Jurist*, 52 (1992), pp. 11-43.
- GRANFIELD, P., "The Church Local and Universal: Realization of Communion," in *The Jurist*, 49 (1989), pp. 449-471.
- GRANT, T.T., "Social Justice in the 1983 Code of Canon Law: An Examination of Selected Canons," in *The Jurist*, 49 (1989), pp. 112-145.

- GREEN, T.J., "The Pastoral Governance Role of the Diocesan Bishop: Foundations, Scope and Limitations," in *The Jurist*, 49 (1989), pp. 472-506.
- _____, "Persons and Structures in the Church: Reflections on Selected Issues in Book Two," in *The Jurist*, 45 (1985), pp. 24-94.
- _____, "Possible Recourse to Congregation against Removal of Pastor," in *Roman Replies and CLSA Advisory Opinions 2003*, pp. 107-113.
- _____, "Rights and Duties of Diocesan Bishops," in *CLSA Proceedings*, 45 (1983), pp. 18-38.
- _____, "Shepherding the Patrimony of the Poor: Diocesan and Parish Structures of Financial Administration," in *The Jurist*, 56 (1996), pp. 706-734.
- _____, "The 2004 Directory on the Ministry of Bishops: Reflections on Episcopal Governance in a Time of Crisis," in *Studia canonica*, 41 (2007), pp. 117-151.
- GREGORY, W., "Viewing the Church as a „Communion“: Three Challenges," in *Origins*, 33 (2003-2004), pp. 413.
- GRELOT, P., "Communion et prière dans le Nouveau Testament," in *Année canonique*, 25 (1981), pp. 74-108.
- GUERRA, M., "La colegialidad en la constitución jerárquica," in *El colegio episcopal* (symposium), I, Madrid, 1964, p. 197; English translation in BARBERENA, "Collegiality," p. 12.
- HERRANZ C., "The Personal Power of Governance of the Diocesan Bishop," in *Communicationes*, 20 (1988), pp. 288-310. Also published in *CLSAP*, 49 (1987), pp. 16-34.
- HUELS, J.M., "*Anglicanorum coetibus*: Text and Commentary," in *Studia canonica* 43 (2009), pp. 389-430.
- _____, "Categories of Indispensable and Dispensable Laws," in *Studia canonica*, 39 (2005), pp. 41-73.
- _____, "The Correction and Punishment of a Diocesan Bishop," in *The Jurist*, 49 (1989), pp. 507-542.
- HUGHES, W., "Not Lords, but Servants," in *Origins*, 15 (1985-1986), p. 482.

- HUOVINEN, E., "How Can One Be and Serve as a Bishop," in *The Jurist*, 66 (2006), pp. 54-69.
- JOYCE, J., "Absolute Power Curbed: The Code and Diocesan Administration," in *The Clergy Review*, 69 (1984), pp. 385-388.
- KASLYN, R.J., "Accountability of Diocesan Bishops: A Significant Aspect of Ecclesial Communion," in *The Jurist*, 67 (2007), pp. 109-152.
- KENNEDY, R.T., "Shared Responsibility in Ecclesial Decision-Making," in *Studia canonica*, 14 (1980), pp. 5-23.
- KOMONCHAK, J.A., "Canon Law in the Service of Communion," in *The Jurist*, 63 (2003), pp. 1-21.
- LYNCH, J., "Co-Responsibility in the First Five Centuries: Presbyteral Colleges and the Election of Bishops," in *The Jurist*, 31 (1971), pp. 14-53.
- _____, "Power in the Church: A Historico-Critical Survey," in *Concilium*, 197 (1988), pp. 13-38.
- MAIDA, A.J., "Rights in the Church," in G.J. DYER (ed.), *A Pastoral Guide to Canon Law*, Dublin, Gill and Macmillan, 1977.
- MALLET, J.K., "Diocesan Structure and Governance," in *CLSA Proceedings*, 42 (1980), pp. 151-161.
- _____, "Temporalities under the Revised Code," in *The Catholic Lawyer*, 29 (1984), pp. 187-194.
- MARCEAUX, S.J., "Presbyteral Councils," in *CLSA Proceedings*, 44 (1982), pp. 198-206.
- _____, "Presbyteral Councils," in *Readings, Cases, Materials in Canon Law*, Minnesota, The Liturgical Press, 1990, pp. 262-270.
- MARCHESI, M., "Il Consiglio presbiterale: gruppo di sacerdoti, rappresentante di un presbiterio," in *Quaderni di Diritto Ecclesiale*, 8 (1995), pp. 61-71.
- MCINTYRE, J.P., "The Acquired Right: A New Context," in *Studia canonica*, 26 (1992), pp. 25-38.
- _____, "Rights and Duties Revisited," in *The Jurist*, 56 (1996), pp. 111-127.

- MENDONÇA, A., "The Bishop as a Father, Brother, and Friend to His Priests," in *Philippine Canonical Forum*, 4 (2004), pp. 75-95.
- _____, "Consultation with the Presbyteral Council Prior to the Constitution of a Parish," in *Studies in Church Law*, 4 (2008), pp. 455ff.
- _____, "Justice and Equity in Decisions Involving Priests," in *Philippine Canonical Forum*, 3 (2001), pp. 51-86.
- _____, "The Nature of the Relationship between the Diocesan Bishop and his Curia," in *Philippine Canonical Forum*, 5 (2003), pp. 75-94.
- _____, "Promotion and Protection of Rights in the Church," in *Philippine Canonical Forum*, 2 (2000), pp. 31-59.
- MERCES DE MELO, C., "Priests and Priestly Formation in the Code of Canon Law," in *Studia canonica*, 27 (1993), pp. 455-477.
- MONTINI, G.P., "Comunione e comunicazione tra consiglio presbiterale diocesano presbiterio, diocesano e diocesi," in *Quaderni di Diritto Ecclesiale*, 8 (1995), pp. 103-110.
- MOODIE, M., "The Administrator and the Law: Authority and Its Exercise in the Code," in *The Jurist*, 46 (1986), pp. 43-69.
- MORRISEY, F.G., "The Alienation of Temporal Goods in Contemporary Practice," in *Studia canonica*, 29 (1995), pp. 293-316.
- _____, "Ordinary and Extraordinary Administration: Canon 1277," in *The Jurist*, 48 (1988), pp. 709-726.
- _____, "Twenty-Five Years of the 1983 Code: Reflections on the Past, Thoughts on the Future," in *CLSA Proceedings*, 70 (2008), pp. 1-27.
- MULLER, H., "How the Local Church Lives and Affirms Its Catholicity," in *The Jurist*, 52 (1992), pp. 340-364.
- NATIONAL CONFERENCE OF CATHOLIC BISHOPS, "United in Service: Reflection on the Presbyteral Council," in *Origins*, 21 (1991-1992), pp. 409-421.
- NOBEL, M.A., "Academic Aspects of Priestly Formation in the 1983 Code of Canon Law," in *Studia canonica*, 42 (2008), pp. 437-471.

- ÖRSY, L., "The Church of the Third Millennium. An Exercise in Theological and Canonical Imagination: In Praise of Communion," in *Studia canonica*, 38 (2004), pp. 5-36.
- _____, "Theology and Canon Law: An Inquiry into their Relationship," in *The Jurist*, 50 (1990), pp. 402-434.
- PAGÉ, R., "After Ten Years- A Study of Priests' Senate," in *Origins*, 4 (1973-1974), pp. 374-382.
- _____, "Le conseil presbytéral dix ans après le Décret *Presbyterorum ordinis*," dans *Studia canonica*, 8 (1974), pp. 237-254.
- _____, "Conseils et offices diocésains selon le nouveau Code," dans *Studia canonica*, 19 (1985), pp. 155-162.
- _____, "Le conseil presbytéral et la révision du Code," dans *Studia canonica*, 14 (1980), pp. 369-375.
- _____, "Conseil presbytéral et office du clergé," dans *L'Église canadienne*, 6 (1976), pp. 43-47.
- PAQUETTE, M., "De duplici consilii presbyterii concepto," dans *Periodica*, 61 (1972), pp. 431-437.
- PASCHER, J., "The Relation between Bishop and Priests," in *Concilium*, 2 (1965), pp. 14-17.
- POKUSA, J.W., "Dioceses, Parishes, Pastors, and Pastoral Care," in *The Jurist*, 67 (2007), pp. 153-175.
- PORTER, L.B., "Principles of Collegiality from Portraits of Presbyteral Assemblies in Acts," in *The Jurist*, 51 (1991), pp. 81-102.
- PROVOST, J.H., "Canon Law and the Role of Consultation," in *Origins*, 18 (1988-1989), pp. 95-99.
- _____, "Coordinating Terms of Office for Consultors, Deans, Priest Council Members," in *Roman Replies and CLSA Advisory Opinions 1985*, pp. 27-30.
- _____, "Diocesan Administration: Reflections on Recent Developments," in *The Jurist*, 41 (1981), pp. 81-104.
- _____, "Presbyteral Councils and Colleges of Consultors: Current Law and Some Diocesan Statutes," in *CLSAP*, 49 (1987), pp. 194-211.

- PROVOST, J.H., "Structuring the Church as a Communion," in J.H. PROVOST (ed.), *The Church as Communion*, Washington, D.C., CLSA, 1984, pp. 191-245.
- _____, "The Working together of Consultative Bodies: Great Expectations," in *The Jurist*, 40 (1980), pp. 81-104.
- PURCELL, J., "The Institute of the Senate of Priests," in *The Jurist*, 38 (1978), pp. 132-152.
- RAMIREZ, R., "Dialogue in Diocesan Pastoral Life," in *Origins*, 36 (2006-2007), pp. 191-195.
- REDAELLI, C., "I regolamenti del Collegio dei Consultori e del Consiglio per gli affari economici della diocesi," in *Quaderni di Diritto Ecclesiale*, 9 (1996), pp. 109-130.
- REID, Jr., C.J., "Some Applications of Principles of Management Theory to Diocesan Structures," in *The Jurist*, 44 (1984), pp. 448-456.
- RENKEN, J.A., "The College of (Eparchial) Consultors: A Comparison of Latin and Eastern Law," in *Studia canonica*, 44 (2010), pp. 445-495.
- _____, "„Duc in altum!’ Communio: Source and Summit of Canon Law," in *The Jurist*, 63 (2003), pp. 22-69.
- _____, "Particular Law on Temporal Goods," in *Studies in Church Law*, 4 (2008), pp. 447-454.
- _____, "Penal Law and Financial Malfeasance," in *Studia canonica*, 41 (2008), pp. 5-57.
- _____, "The Principles Guiding the Care of Church Property," in *The Jurist*, 68 (2008), pp. 136-177.
- _____, "The Statutes of a Parish," in *Studia canonica*, 44 (2010), pp. 99-148.
- RIVELLA, M., "Le funzioni del Consiglio presbiterale," in *Quaderni di Diritto Ecclesiale*, 8 (1995), pp. 48-60.
- ROUTHIER, G., "Vatican II: The First Stage of an Unfinished Process of Reversing the Centralized Government of the Catholic Church," in *The Jurist*, 64 (2004), pp. 247-283.
- SARZI SARTORI, G., "Presbiterio e Consiglio presbiterale nelle fonti conciliari della disciplina canonica," in *Quaderni di Diritto Ecclesiale*, 8 (1995), pp. 6-47.
- SCHLOSSER, J., "The Ministry of the Episkope," in *The Jurist*, 66 (2006), pp. 93-113.

- SCHMITZ, H., "Das Presbyterium der Diözese," in *Trierer Theologische Zeitschrift*, 77 (1968), pp. 133-135.
- _____, "Consilium Presbyterale. Stellung, Funktion und Organisation des Priesterrats im Lichte der Kirchenrechtlichen Normen, Weisungen und Planungen," in *Archiv für katholisches Kirchenrecht*, 144 (1975), pp. 20-46.
- SHANAHAN, D., "Legislating for the People of God: The Lessons of History," in *Studia canonica*, 17 (1983), pp. 29-45.
- SIEBEL, W., "The Exercise of Power in Today's Church," in *Concilium*, 197 (1988), pp. 39-52.
- SOBANSKI, R., "Communio, principe de dynamisation du droit ecclésial," in *Il Diritto ecclesiastico*, 98 (1987), pp. 1039-1061.
- STAFFORD, F.J., "A Bishop's Views of the Presbyteral Council," in *Origins*, 15 (1986), pp. 503-504.
- SUQUIA, C.A., "The Church One and Diverse in Service to Mission," in *The Jurist*, 52 (1992), pp. 7-10.
- TORQUEBIAU, P., "Chapitres de chanoines," in *Dictionnaire de droit canonique*, vol. 3, Paris, Letouzey et Ané, 1955, cols. 537 ff.
- URRUTIA, F., "Administrative Power in the Church according to the *Code of Canon Law*," in *Studia canonica*, 20 (1986), pp. 253-273.
- UY, V.R., "The Principle of Equity in the Code of Canon Law," in *Philippine Canonical Forum*, 8 (2006), pp. 65-106.
- VARVARO, W.A., "The Bishop's Right to Tax Parish Income," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, CLSA, 2002, pp. 402-403.
- VILELA, A., "Réflexion théologique sur les Conseils presbytéraux," in *Nouvelle revue théologique*, 94 (1972), p. 596.
- WAINWRIGHT, G., "Episcopacy and the Reintegration of Ecclesial Unity," in *The Jurist*, 66 (2006), pp. 242-263.
- WIJLENS, M., "For You I Am a Bishop, with You I Am a Christian: The Bishop as Legislator," in *The Jurist*, 56 (1996), pp. 68-87.

WILLIAMS, G.H., "The Ministry of the Ante-Nicene Church (c. 125-325)," in H.R. NIEBUHR and D.D. WILLIAMS (eds.), *The Ministry in Historical Perspective*, New York, Harper & Row, 1956, p. 39ff.

WRIGHT, D.F., "Clement and the Roman Succession in Irenaeus," in *Journal of Theological Studies*, 18 (1967), pp. 144 ff.

BIOGRAPHY

John Okosun was born on the 30th of January 1966. In 1985, he began his formation in spirituality as preparation for the major seminary, and in 1986 he was admitted to SS. Peter and Paul Major Seminary Ibadan. He was ordained a priest in 1993.

John Okosun holds a Bachelor of Arts degree in Philosophy from the University of Ibadan Nigeria (1990); a Bachelor of Sacred Theology from Urbaniana University, Rome (1993); Licentiate in Canon Law from the University of Santo Tomas Manila, Philippines (2001); and a Master's degree in Educational Leadership and Innovation from the University of Warwick in the United Kingdom (2005). He began his Ph.D program at St. Paul University in Ottawa in 2009.

He has held the following offices: Assistant Priest, St. Maria Goretti Parish and Vice Chancellor, Benin (1993-1995); Parish Administrator, Sacred Heart Parish, Agenebode (1995); Parish Priest, St. Mary's Parish Iviukwe and Assistant Vocation's Director (1995-1997); Parish Priest, St. Thomas Aquinas Parish, Abudu (1997-1998); Vocations Director (1997-1999); Acting Administrator, Holy Cross Cathedral (1998-1999); Acting Administrator, Holy Cross Cathedral (2001-2002); Rector, St. John of the Cross Seminary, Ekpoma (2002-2004); Member of the Presbyteral Council and the College of Consultors (2003-2004); Administrator, St. Gregory's Church Ekpoma (2005-2007); Parish Priest, Christ the King Parish, Ebelle (2007-2009). He was also a member of the Presbyteral Council and served as the health coordinator of Uromi Diocese between 2006 and 2009. In 2008 he was appointed a judge to the Metropolitan Tribunal of Benin.