

Parishes: Leadership and Other Issues associated with Clustering and Mergers

Today the most common experience of church and Christian community is in a parish. In many dioceses and archdioceses, parishes are being clustered into pastoral areas,² and often the number of Masses in these pastoral areas is being rationalised and timed so that it is easier for neighbouring priests to celebrate Masses in the other parishes for which they are responsible. When parishes are clustered, priests sometimes find it difficult with the number of meetings they now have to attend, because there is a parish council and a parish finance committee in each parish.

Also, throughout New Zealand and Australia, parishes are being combined or merged with other parishes. Major questions arise concerning leadership and the role of priests. Church buildings are sometimes being sold for profane use or used as educational facilities, rather than as places of worship.

These changes in parishes raise a number of pastoral and canonical issues concerning leadership, ownership of property, consultation and the procedures required. In fact, suppressions and alterations to parishes elsewhere in the world have been successfully challenged by recourse to the Holy See.

Scripture

The early Christian community is described in Acts 2:42: "... they devoted themselves to the apostles' teaching and fellowship, to the breaking of bread and the prayers". This text expresses four key elements of Christian communities at any time in the history of the church: (1) education, (2) community life, (3) Eucharist, and (4) prayer. Besides being a compendium of the principal norms of church life, they express basic constitutive elements of parish life today.

Origins of Parishes

Parishes came into existence in the history of the church in the fourth century. Christianity spread rapidly once the Emperor Constantine issued his Edict of Toleration of Christianity in 313. By 380 the Emperor Theodosius recognised Christianity as the official religion of the Roman Empire.

The spread of Christianity into rural communities necessitated the appointment of priests to look after these communities and to serve the faithful. This development led to what we know now as parishes.

Council of Trent

The Council of Trent encouraged the establishment of parishes. When people could not receive the sacraments because of distance or inaccessibility, the council encouraged the establishment of new parishes even if the priests involved were opposed to this.³

1917 Code

Parishes became an established church structure in canon law. The 1917 Code required that, for the care of souls, the diocese should be divided into distinct territorial parts called parishes.⁴ However, parishes that were not territorial, such as ethnicity- or language-based groupings, required the special approval of the Apostolic See.⁵

Vatican II

While the Second Vatican Council did not provide a precise definition of a parish, it frequently expressed its insights in a variety of documents. The Constitution on the Sacred Liturgy spoke of:

... groupings of the faithful. Among these the parishes, set up locally under a pastor who takes the place of the bishop, are the most important: for in some manner they represent the visible Church constituted throughout the world ... Efforts also must be made to encourage a sense of community within the parish, above all in the common celebration of the Sunday Mass.⁶

This council document recognises the importance of the parish in the life of the church. It is the parish where most people experience what it is to be church, and it is from the Sunday liturgy that the sense of community flows.

Parishes are envisioned as basically Eucharistic communities. The Decree on the Pastoral Office of Bishops in the Church stated: "In carrying out their work of sanctification parish priests should ensure that the celebration of the Eucharistic Sacrifice is the centre and culmination of the entire life of the Christian community".⁷

The church is experienced most of all in the Sunday Eucharist celebrated in the local community. That has always been the case. Even when the church has been persecuted behind the Iron Curtain and in all kinds of circumstances in history, Christians have continued to meet, in the catacombs and other similar places, for the celebration of the Eucharist. If Christians stopped gathering to celebrate the Eucharist, they might have been safer since they would have been more difficult to apprehend. However, it is an essential part of being Christian that Christians gather together to celebrate the Eucharist united with Christ.

Role of Priests

Vatican II reminded parish priests of their duties within the parish. These duties included leading the people to have a wider sense of church life, something which goes beyond the parish:

... parish priests and their assistants should carry out their work of teaching, sanctifying and governing in such a way that the faithful and the parish communities may feel that they are truly members both of the diocese and of the universal Church. They should therefore collaborate both with other parish priests and with those priests who are exercising a pastoral function in the district.⁸

Thus, the council fathers highlighted the interconnectedness of the communities of the faithful in parishes. Since "Parish priests are in a special sense collaborators with the bishop",⁹ there is an essential relationship between the parish communities and the diocesan community.

Parishes in some manner "represent the visible Church constituted throughout the world".¹⁰ Parishes are in some ways images of the church. Through these often small and scattered local communities which are part of the diocesan and universal Church, "Christ is present through whose power and influence the One, Holy, Catholic and Apostolic Church is constituted".¹¹

Priests "gather the family of God ... and lead it in Christ".¹² The whole purpose of their authority is to build up the body of Christ. The building up of the Christian community is essentially through the Eucharist because "no Christian community is built up which does not grow from and hinge on the celebration of the most Holy Eucharist".¹³ This is particularly true of Sunday celebrations of the Eucharist.

Collaborative ministry by priests and lay faithful is an essential part of parish life. The Decree on the Apostolate of the Laity stated: "The laity should develop the habit of working in the parish in close union with their priests ... The laity will continuously cultivate the 'feeling of the diocese', of which the parish is a kind of cell; they will be always ready on the invitation of their bishop to make their own contribution to diocesan undertakings".¹⁴

Rationale for Parishes

The Decree on the Life and Ministry of Bishops pointed out that "the parish exists solely for the good of souls".¹⁵ Logically, Vatican II taught that "the same concern for the salvation of souls should be the motive for determining or reconsidering the erection or suppression of parishes and other changes of this kind".¹⁶ Clearly the council fathers appreciated the need for changes to existing parishes forty years ago.

Pope Paul VI issued the apostolic letter, *motu proprio, Ecclesiae Sanctae*, on August 6, 1966, to implement some of the decisions and decrees of the Second Vatican Council. He stated in number 21, concerning the erection, suppression and changes of parishes:

§1 Every effort should be made that parishes in which, because of an excessive number of the faithful, or too large a territory, or for any other reason, apostolic work can be done only with difficulty or less effectively, be divided or dismembered in the way best suited to the circumstances. Likewise, parishes which are too small should be united insofar as the situation demands and circumstances permit ...

§3 A diocesan Bishop can on his own authority erect or suppress parishes or change them in any way, after hearing from the Council of Priests.¹⁷

Both the Vatican II and the post—Vatican II documents consistently taught that the "good of souls" is the principle for making decisions about parishes. These souls, that the bishop is concerned with, are not just the souls of parishioners in a parish, but include all those in the diocese.

1983 Code

A parish is described in canon 515 §1 as "a definite community of the Christian faithful established on a stable basis within a particular church". A decree of the diocesan bishop formally constitutes a community as a parish.

The parish is a public juridical person from the law itself.¹⁹ This means that the parish is recognised in canon law as having legal standing; it is a subject of rights and obligations. The parish owns its own property which it administers in its own name. In a parallel way, corporations are recognised in the secular law as legal systems. The parish property is not owned by the individual parishioners, or even by them and the parish priest. A parallel is the Trust Fund for the Remuneration and Sustentation of Clergy, which is not owned by the priests of the diocese. The diocese does not own the parish property either, even if it is vested in the name of the bishop as corporation sole, or by some other similar instrument of secular law. Of its nature a public juridical person is perpetual.²⁰ Hence, once established, the parish has a right to permanent existence. It is an artificial, legal construct that continues to exist when individual parishioners die, or when the parish priest is appointed to another parish. Parish property is owned by the parish as a juridical person according to the basic principle of church ownership expressed in canon 1256.²¹ Parishes acquire, retain, administer and alienate property on their own authority.²²

A parish is a public, non-collegial juridical person made up of an aggregate of persons.²³ It is 'public' because, having been constituted by competent ecclesiastical authority, it acts officially in the

name of the church.²⁴ The parish priest acts in the name of the parish, representing the parish in all legal matters, so it is non-collegial.²⁵ Each parish has its own finance committee to assist the parish priest in administering the assets of the parish.²⁶

The Congregation for the Clergy has outlined four possible parish modifications:

- i extinctive union (sometimes known as merger): A and B unite to form C, only C remains (cf can. 121)
- ii extinctive union (sometimes also known as merger, or as amalgamation): A is subsumed into B, only B remains (by analogy to can. 121)
- iii total division: A is divided into B and C, only B and C remain (cf. can. 122)
- iv suppression: A is extinguished ... nothing remains (cf. can. 123).²⁷

Any modification of a parish requires a just cause: "A parish is a community of the faithful which, being a juridic person *ipso iure*, is perpetual by its nature (cf. can. 120 §1, and can. 515 §§1, 3). It cannot be extinguished or even notably altered without just cause".²⁸ The congregation also reminds everyone that "the principal motivation for modifying a parish is a concern for souls (*Christus Dominus*, no. 32) and this modification should be undertaken when the good of the faithful requires it (*Apostolorum Successores*, no. 214)".²⁹

So that any decision is not pastorally damaging or ineffective, there needs to be full and genuine consultation with parishioners. Pastorally effective consultation is far more demanding than merely fulfilling the minimal requirements of canon law. Lawrence Di Nardo gives the example of someone on an administrative board:

... who said that canon 515 §2 of the Code of Canon Law permits the bishops to "erect, suppress or alter parishes" provided he "has heard the presbyteral council." This simple action would seem to make the process very efficient. Just gather a list of the parishes to be suppressed, present them to the priests' council, elicit their counsel and then issue decrees suppressing those parishes and the issue is resolved.³⁰

But Di Nardo raised the issue of the rights of the parishes and parishioners in the parishes to be closed, and how they could vindicate their rights. Subsequently the Pittsburgh diocese embarked on a five-year process of parish reorganisation. This process involved wide consultation with priests and parishioners. Pittsburgh diocese would claim that the faithful were informed and participated effectively in the decisions affecting them and had an opportunity to defend their rights as parishes were restructured.³¹ James Coriden likewise asserts the rights of

parishioners to know about matters that will affect their community whether they originate from within or outside the parish.³²

Furthermore, the canon law on financial matters needs to be observed, because, for one thing, non-observance of canon law can impact on collections. Another factor is that, if parishioners become disillusioned, there is always the risk that people will cease going to Mass if they have to travel some distance to a church. Secular law requirements also need to be kept in mind in relation to trust funds and intentions of donors.

However, when circumstances require it, a diocesan bishop can suppress an existing, public juridical person.³³ When a diocesan bishop suppresses a parish, the parish assets then belong to the next highest juridical entity, which would be the diocese. However, the diocesan bishop could only take this course of action if there were no more parishioners living within the parish. If a new parish acquires the parishioners, it acquires the assets. The intentions of the donors have to be respected.'

Usually, the diocesan bishop is combining or merging parishes in a diocesan restructuring. When the diocesan bishop merges a parish with another parish to form a new parish, a new juridical person is created.³⁵ This new juridical person acquires the assets and debts of both former parishes. Then the parishioners, as well as the assets and debts of both parishes, belong to a new juridical person that has been constituted.

Another possibility is for the diocesan bishop to divide the parish, and either join the parts to other parishes, or make the parts of the original parish into new parishes.³⁶ In such a situation, the diocesan bishop must be careful to see that the intentions of donors and founders are faithfully fulfilled. All acquired rights have to be observed.

Parish Priest and His Role

The parish priest³⁷ is the spiritual head of the parish and so canon 519 states:

The parish priest is the proper pastor of the parish entrusted to him. He exercises the pastoral care of the community entrusted to him under the authority of the diocesan Bishop, whose ministry of Christ he is called to share, so that for this community he may carry out the offices of teaching, sanctifying and ruling with the cooperation of other priests or deacons and with the assistance of lay members of Christ's faithful, in accordance with the law.

The duties and responsibilities of his offices are spelt out in detail in canons 528-530 and 534.

The parish priest is the centre of a parish community and he leads the community in Christian living most of all by his example. Therefore, a parish priest normally resides

among his people and serves them.³⁸ The same provision applies to assistant priests who work with the parish priest and share his duties.³⁹

Parishes Entrusted to a Clerical Religious Institute or a Clerical Society of Apostolic Life

When a parish is entrusted to a clerical religious institute (such as the Society of Mary) or to a society of apostolic life (such as the Columbans), the diocesan bishop must appoint one of the priests as the parish priest or as the moderator.⁴⁰

The parish may be entrusted to the religious institute or the society of apostolic life in perpetuity or for a determined period of time. In either case, there should be a written agreement between the diocesan bishop and the competent superior defining the work to be accomplished, the persons to be assigned and the financial arrangements."

Team Ministry in a Parish

Priests can be assigned to care for a parish or a number of parishes in what is often called a "team ministry". Canon 517 §1 states: "Where circumstances so require, the pastoral care of a parish, or of a number of parishes together, can be entrusted to several priests jointly, but with the stipulation that one of the priests is to be the moderator of the pastoral care to be exercised. This moderator is to direct the joint action and to be responsible for it to the Bishop".

The whole group of priests is responsible for what happens in the parish or parishes. However, one priest must be appointed by the diocesan bishop as the moderator to coordinate the activities of all the priests. Edward Sweeney argues that "the term *in solidum* usually means that each member of a group operating *in solidum* is personally responsible to see to it that all of the obligations of the group are fulfilled and has personally all of the rights arising from the obligations of the group and from membership of the group".⁴² The priests have stability in office and must have all the qualities to be a parish priest. Each is bound by the obligation of residence according to canon 543. If the moderator ceases from office, by taking up a new appointment, or if he dies, the parish does not become vacant. In such a case, the most senior priest, by appointment to the parish or parishes, fulfils the moderator's function until a new moderator is appointed.⁴³

There is no mention in canon 517 of a shortage of clergy being a reason for this approach to pastoral care. 'The "circumstances" mentioned could well include shortage of clergy, but they could also include other reasons such as priests being involved in other ministries such as being teachers or tribunal judges.

Only one priest can be the "moderator"." He alone takes possession of the parish.⁴⁵ Canon 543 §2, 3° makes it clear that in all legal matters, it is the moderator alone who represents a parish."

Pastoral Care of a Parish by a Deacon, Lay Religious Community or Layperson

Because of a shortage of priests, canon 517 §2 allows for the appointment of a person or persons who are not priests to participate in the exercise of pastoral care in a parish:

If, because of a shortage of priests, the diocesan Bishop has judged that a deacon, or some other person who is not a priest, or a community of persons, should be entrusted with a share in the exercise of the pastoral care of a parish, he is to appoint some priest who, with the powers and faculties of a parish priest, will direct the pastoral care.

This canon, while still allowing great flexibility, requires that every parish has a priest with the powers and faculties of a parish priest.

The 1997 instruction on Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests pointed out that non-ordained people could not have the title of "parish priest" or "moderator" as these persons always had to be priests or bishops.⁴⁷ Nor could these laypersons be called "community leader".⁴⁸

The appointment of a priest with the powers and faculties of a parish priest implements canon 526 §1: "A parish priest is to have the parochial care of one parish only. However, because of a shortage of priests or other circumstances, the care of a number of neighbouring parishes can be entrusted to the one parish priest". The second paragraph of canon 526 demands that there be only one parish priest or moderator in each parish.⁴⁹

The canon speaks of a "shortage of priests". This shortage could be because of a general shortage of priests, or it could be because priests are unavailable for appointment as parish priest because of appointments to other ministries and responsibilities such as a seminary position. It is possible for the priest to be fulfilling duties in more than one parish because there are not many parishioners and the parishes are relatively close to one another. The priest appointed can certainly rely on lay people to do many things with and for him. However, when a priest becomes available, canon 151 requires the bishop to make an appointment as soon as reasonably possible.⁵⁰

Canon 517 §2 is dealing with an extraordinary situation. Although it might have become common practice in some dioceses, it is not considered to be the norm. However, it is in accord with the Directory on the Pastoral Ministry of Bishops, number 198, which speaks of

how the bishop in relation to all members of the faithful "shares the apostolic mission and to them he entrusts responsibilities, according to the norms of prudent pastoral cooperation". Accordingly, the layperson, deacon or lay religious community sharing in the pastoral care of the parish should not limit the involvement and activity of all the parishioners in the life of the parish.

James Provost, writing about "Canon 517: Priest as Moderator of Parish", sums up the situation:

... the priest moderator in a canon 517 §2 situation may be the pastor of the parish who is aided by deacons and others in a "pastoral team" arrangement. He may be the pastor of a neighbouring parish who has been entrusted with the pastoral care of this other parish, and who is aided in this additional parish by a deacon or others; or he may not be a pastor at all, but moderates the participation in pastoral care provided by a deacon or others for a parish without its own pastor. In the first two situations, the priest is indeed the "proper pastor" of the parish in question. In the third situation, however, there is a priest who moderates the pastoral care given by a deacon or others.⁵¹

This priest in the third situation is provided with the powers and faculties of a parish priest, and is the priest who directs the pastoral care. John Renken points out that such a priest is the community leader but is not technically the parish priest.⁵² Any deacons, lay religious, or laity collaborating in the pastoral care do not have the full care of souls, which can only be exercised by a priest.⁵³ While a certain degree of authority can be delegated to them, the responsibility for pastoral care remains with the priest directing the pastoral care in the parish.

Altering Parishes, and the Consultation Involved

Canon 515 §2 states: "the diocesan bishop is not to erect, suppress, or notably alter parishes without hearing the presbyteral council".

This is the only canon in the 1983 Code to use the word "notably".

Since the parish is essentially a community of Christ's faithful, what "notably" means is really about the number of parishioners involved in any change.⁵⁴

Many groups such as the diocesan pastoral council may advise the bishop, but the involvement of the council of priests, which aids the bishop in the governance of the diocese, is crucial. It would be a mistake if the task force or some other planning group completed a total package and then informed the council of priests of the result. The impression could be given that the council was being consulted too late for its advice to be significant.

The consultation with the council of priests must be genuine consultation. The bishop cannot simply tell them what he plans to do, or announce what is going to happen before the council meets. The consultation has to take place prior to a decision being reached in the matter. Otherwise, instead of being consultation it would be a rubber-stamping of a decision that had already been made. Recourse against diocesan restructuring has been successful where there has not been genuine consultation. "Between 1985 and 1995, the Apostolic Signatura handled 22 cases of recourse involving parish closures and/ or relegation of a church to profane use."⁵⁵ Two of these cases of recourse were successful, and both times it was because a diocesan bishop had not properly consulted the council of priests. The recourse could be taken by a priest who disagrees with the decision, or even by an individual parishioner.

When a legal act calls for the advice or the consent of others, they must be convoked and polled according to legal requirements. The statutes for the council of priests might spell out how the consultation may take place. Some statutes allow for phone consultation to take place. But it is best that canon 127 be carefully followed, with the council of priests actually meeting, so that the consultation follows the letter and the spirit of the law:

Canon 127 §1. When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or the advice of some college or group of persons, the college or group must be convened in accordance with Can. 166, unless, if there is question of seeking advice only, particular or proper law provides otherwise. For the validity of the act, it is required that the consent be obtained of an absolute majority of those present, or that the advice of all be sought.

§2 When the law prescribes that, in order to perform a juridical act, a Superior requires the consent or advice of certain persons as individuals:

1° if consent is required, the Superior's act is invalid if the Superior does not seek the consent of those persons, or acts against the vote of all or any of them;

2° if advice is required, the Superior's act is invalid if the Superior does not hear those persons. The Superior is not in any way bound to accept their vote, even if it is unanimous; nevertheless, without what is, in his or her judgement, an overriding reason, the Superior is not to act against their vote, especially if it is a unanimous one.

§3 All whose consent or advice is required are obliged to give their opinions sincerely. If the seriousness of the matter requires it, they are obliged carefully to maintain secrecy, and the Superior can insist on this obligation.

When the council of priests is convened, the issue should be presented for advice, and each member of the council of priests should have the opportunity to give his advice. It is very important that accurate minutes be kept of that portion of the meeting so that the advice given by each member is clearly recorded. It should be recorded, as well, which members had no opinion about what should happen. These minutes can then clearly establish that true consultation has taken place. Finally, when a vote is taken it is important to record who voted for and against a proposal, who abstained and who the tellers were.

Respecting the Intentions of Donors

In altering parishes, bishops have to respect acquired rights of donors and founders and any acquired rights." In some instances people may have donated money to start a parish or build a church. They may have to be consulted to know their intentions prior to a major change being made to a parish. These donors are in a different situation to parishioners who, under canon 222, donate money to generally support the parish including maintaining the church building(s).

While people who can demonstrate a genuine involvement in the parish need to be involved, and while they may have acquired a right to pastoral care in the parish, the bishop is not subject to their veto because it is the bishop who has the final responsibility concerning parishes. Canon 122 requires the bishop to respect their acquired right to pastoral care in canons 213 and 214 in particular, but the bishop can amalgamate or alter a parish without their consent. A parallel to this whole situation is the consultation that happens when a diocese is divided or dioceses are amalgamated. The Apostolic See does not give each individual member of Christ's faithful in the diocese, who has donated money to the diocese, a determining say about the decision."

A parish is part of the broader community of the church.⁵⁸ The Catholic Church is a communion of local Eucharistic communities, not a federation of community churches. As the letter of the Congregation for the Doctrine of the Faith, on May 28, 1992, stated: "in every particular Church, the one, holy, catholic and apostolic Church of Christ is truly present and active. For this reason, the universal Church cannot be conceived as the sum of the particular Churches, or as a federation of particular Churches".⁵⁹ It would be contrary to the nature of the church to have someone, or one community, undermining the communion or pastoral welfare of the rest of the diocese.

Once the diocesan bishop has consulted the council of priests and those whose intentions and rights must be respected, he must make a decision about the proposed matter. When the

diocesan bishop has made his decision, he should issue a proper decree, notarised by the chancellor, so there is a verifiable juridical act.

It is always advisable to have on record a list of dates and consultations that have taken place.

Church Buildings

Merging parishes does not necessarily mean or include closing church buildings or turning them over for secular purposes. Often, when parishes are merged, country churches are closed. This is the source of huge upset, especially when church buildings are sold directly to other ecclesial communities for them to use as places of worship. Decisions like this only add to the difficulties of the situation. Sometimes the churches are used as parish meeting places or for religious education purposes. This is quite different from giving them over for profane use, such as allowing them to be sold so they can be converted into houses or haysheds. There is a completely separate procedure for alienating or reducing a church to profane use to the procedure for altering parishes. The Congregation for Clergy explains:

There is a clear disposition both in law and in tradition that a sacred edifice which has been given over perpetually for divine worship should retain that sacred character if at all possible, and only a grave reason to the contrary is sufficient to justify relegating a church to profane but not sordid use (cf. can. 1222 §2). Even more so, altars do not lose their dedication or blessing when the church does, and can never be turned over to profane use for any reason (cf. canons 1212 and 1238).⁶⁰

A bishop has to consult the council of priests when building a new church.⁶¹ When a church is being relegated for profane use, the bishop has to obtain the consent and not just the advice of "those who legitimately claim rights regarding the church".⁶² He also must ascertain that relegating this church to profane use will not impair the good of souls. People do not have a right to pastoral care in a particular church building. The good of souls includes the souls of all Christ's faithful in the diocese for whom the bishop has obligations to provide pastoral care. One particular group of the faithful should not be receiving a level of pastoral care in a way which leads to other members of the faithful being deprived.

Those who could claim rights regarding a church building would include donors.⁶³ Those with rights certainly would not include all current parishioners. The person responsible for the juridical person of the parish is the parish priest." While it is advisable that the bishop consults with all current parishioners, the required consent is that of the parish priest.

Once the bishop has the consent of all those who legitimately claim rights in relation to the church and has consulted the council of priests, he could grant permission for profane use. The bishop needs to consult only the council of priests. It might not be wise for him to do so, but he could act contrary to the advice that has been given by the majority of members. A definite decree should be made and there should be a record of all the consultations, minutes, consents and votes.

Conclusion

The present situation clearly calls for vocations to the priesthood and religious life to be more valued and to be more actively promoted.

In the short term, bishops, priests, religious and parishioners often face very difficult decisions concerning parishes as the clergy age and decline in numbers, while other factors such as the urban drift from the country accentuate the problem. Everyone can see that changes are inevitable.

However, as Pope Francis reminds everyone:

The parish is not an outdated institution; precisely because it possesses great flexibility, it can assume quite different contours depending on the openness and missionary creativity of the pastor and the community. While certainly not the only institution which evangelizes, if the parish proves capable of self-renewal and constant adaptivity, it continues to be "the Church living in the midst of the homes of her sons and daughters."⁶⁵

For a long time official church documents and canon law have allowed for changes to come about. 'The law is clear about who makes the decisions and provides the procedures to bring about change. How successfully changes come about often depends upon clerical leadership, the consultation process, education and individual Christians living their vocations in new ways. There is no doubt that changes to parishes will be more smoothly introduced when people feel listened to, a consensus is reached, and lay leaders are properly trained. Ultimately, all those involved with diocesan restructuring need to appreciate as Saint John Chrysostom said in the fourth century: "You cannot pray at home as at church, where there is a great multitude, where exclamations are cried out to God as from one great heart and there is something more: the union of minds, the accord of souls, the bond of charity, the prayer of priests".⁶⁶

1. This article is a chapter of Canon Law in Action and is a slightly revised version of an article that bore the same title and was published in the *Australasian Catholic Record* 81, no. 4 (October 2004: 442-456).
2. Cardinal Williams, in the Archdiocese of Wellington, on 1 October 2003, issued a decree placing the 47 parishes into 15 pastoral areas. A discussion booklet was produced, there was consultation, and an educational programme for lay leaders was initiated.
3. But in parishes where parishioners can only come to receive the sacraments and attend divine offices with great inconvenience, because of distance or inaccessibility, new parishes may be founded, even against the will of pastors': in Norman Planner, ed., *Decrees of the Ecumenical Councils, vol. 2, Trent to Vatican II* (Washington, DC: Sheed and Ward, and Georgetown University Press, 1990), 729-730.
4. 4Can, 216 §1 The territory of every diocese is to be divided up into distinct territorial parts; to each part a specific church and determined population are assigned, with its own rector as its pastor, who is over it for the necessary care of souls... §3.The parts of the diocese mentioned in §1 are parishes.
5. Can. 216 §4.
6. Vatican Council II, *Sacrosanctum Concilium*, 42, in Austin Flannery, ed., *Vatican Council II: The Conciliar and Post Conciliar Documents* (Collegeville: Liturgical, 1975), 15 (Hereinafter cited as 'Flannery'.)
7. CD 30, in Flannery, 582.
8. CD 30, in Flannery, 581.
9. CD 30, in Flannery, 581.
10. SC 42, in Flannery, 15
11. LG 26, in Flannery, 381.
12. PO 6, in Flannery, 873.
13. PO 6, in Flannery, 874
14. Vatican II, *Apostolicam Actuositatem*, in Flannery, 777-778.
15. CD 31, in Flannery, 583.
16. CD 32, in Flannery, 583.
17. Paul VI, *Ecclesiae Sanctae* 21, in *CLD VI*: 277
18. Sacred Congregation for Bishops. *Directory on the Pastoral Ministry of Bishops*, 31 May 1973 (Ottawa: Canadian Catholic Conference), no. 177.91.
19. Can. 515 §3. "A lawfully established parish has juridical personality by virtue of the law itself." For a comprehensive explanation of juridical persons, cf. David Price, "Juridical Person: Fiction or Reality? Does It Matter?" in *Proceedings of the Thirty First Annual Conference*, Canon Law Society of Australia and New Zealand (Auckland, 1997), 37-58.
20. Can. 120 §1. A juridical person is by its nature perpetual. It ceases to exist, however, if it is lawfully suppressed by the competent authority, or if it has been inactive for a hundred years.
21. Can. 1256. Under the supreme authority of the Roman Pontiff, ownership of goods belongs to that juridical person which has lawfully acquired them,
22. Can. 1254 §1. The Catholic Church has the inherent right, independently of any secular power, to acquire, retain, administer and alienate temporal goods, in pursuit of its proper objectives.
23. Can. 115
24. §1.... juridical persons in the Church are either aggregates of persons or aggregates of things.
25. §2 An aggregate of persons, which must be made up of at least three persons, is collegial if the members decide its conduct by participating together in making its decisions, whether by equal right or not, in accordance with the law and the statutes: otherwise, it is non-collegial.
26. §3 An aggregate of things, or an autonomous foundation, consists of goods or things, whether spiritual or material, and is directed, in accordance with the law and the statutes, by one or more physical persons or by a College.
27. Can. 116 §1. Public juridical persons are aggregates of persons or of things which are established by the competent ecclesiastical authority so that, within the limits allotted to them, they might in the name of the Church and in accordance with the provisions of law, fulfil the specific task entrusted to them in view of the public good. Other juridical persons are private.
28. Can. 532. In all juridical matters, the parish priest acts in the person of the parish, in accordance with the law. He is to ensure that the parish goods are administered in accordance with Canons 1281-1288.
29. Can. 537 in each parish there is to be a finance committee to help the parish priest in the administration of the goods of the parish, without prejudice to Canon 532. It is ruled by the universal law and by the norms laid down by the diocesan Bishop, and it is comprised of members of Christ's faithful selected according to these norms.
30. [Procedural Guidelines for the Modification of Parishes, the Closure or Relegation of Churches to Profane but nor Sordid Use, and the Alienation of the Same.](#)
31. Procedural Guidelines for the Modification of Parishes.
32. Procedural Guidelines for the Modification of Parishes.
33. Lawrence Di Nardo, "Parish Reconfiguration: Protection of Rights of Bishops and Parishes": in *Proceedings of the Seventy-Third Annual Convention 2011*, Canon Law Society of America, 55,
34. Di Nardo, "Parish Reconfiguration": 62.
35. James Coriden, "Parish Communities and Reorganisations": *Studia Canonica* 44 (2010): 42.

36. Can. 515 §2. The diocesan Bishop alone can establish, suppress or alter parishes. He is not to establish, suppress or notably alter them unless he has consulted the council of priests: For a discussion of the relationship of the parish with the diocese confer David Price, *The Relationship between the Parish and the Diocese concerning the Administration and Alienation of Temporal Goods*: *Canon Law Society of Australia and New Zealand Newsletter*, no, 1 (Sydney, 2000): 33-37
37. Can. 122.
38. Can. 121. When aggregates of persons or of things which are public juridical persons are so amalgamated that one aggregate, itself with a juridical personality, is formed, this new juridical person obtains the patrimonial goods and rights which belonged to the previous aggregates; it also accepts the liabilities of the previous aggregates. In what concerns particularly the arrangements for the goods and the discharge of obligations, the wishes of the founders and benefactors. and any acquired rights, must be safeguarded.
39. Can. 122. When an aggregate which is a public juridical person is divided in such a way that part of it is joined to another juridical person, or a distinct public juridical person is established from one part of it, the first obligation is to observe the wishes of the founders and benefactors, the demands of acquired rights and the requirements of the approved statutes.
40. Congregation for the Clergy, Instruction, "The Priest: Pastor and Leader of the Parish Community: *Origins* 32 12002-2003): 373-390. This instruction follows the Congregation for the Clergy instruction, "The Priest and the Third Christian Millennium: Minister of the Sacraments and Leader of the Community": *Origins* 29, no. 13: 197-211, and the Congregation for the Clergy et al., "Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests": *Ecclesiae de Mystero*, 15 August 1997, in William H. Voestman, *The Sacrament of Orders and the Clerical State* (Ottawa: Saint Paul University, 1999), 281-305.
41. Can. 533
42. §1. The parish priest is obliged to reside in the parochial house, near the church. In particular cases, however, where there is a just reason, the local Ordinary may permit him to reside elsewhere, especially in a house common to several priests, provided the carrying out of the parochial duties is properly and suitably catered for.
43. §2. Unless there is a grave reason to the contrary, the parish priest may each year be absent on holiday from his parish for a period not exceeding one month, continuous or otherwise. The days which the parish priest spends on the annual spiritual retreat are not reckoned in this period of vacation. For an absence from the parish of more than a week, however, the parish priest is bound to advise the local Ordinary.
44. Can. 550 §1. The assistant priest is bound to reside in the parish or, if he is appointed for a number of parishes at the same time, in one of them. For a just reason, however, the local Ordinary may permit him to reside elsewhere, especially in a house common to several priests, provided the carrying out of the pastoral duties does not in any way suffer thereby.
45. Can. 520 §1. A juridical person may not be a parish priest. However, the diocesan Bishop, but not the diocesan Administrator, can, with the consent of the competent Superior, entrust a parish to a clerical religious institute or to a clerical society of apostolic life, even by establishing it in the church of the institute or society, subject however to the rule that one priest be the parish priest or, if the pastoral care is entrusted to several priests jointly, that there be a moderator as mentioned in Can. 517 §1.
46. Can. 520 §2. The entrustment of a parish, as in §1, may be either in perpetuity or for a specified time. In either case this is to be done by means of a written agreement made between the diocesan Bishop and the competent Superior of the institute or society. This agreement must expressly and accurately define, among other things, the work to be done, the persons to be assigned to it and the financial arrangements.
47. Edward A. Sweeney, *The Obligations and Rights of the Pastor of a Parish according to the Code of Canon Law* (New York: Alba House, 2002), 234; John Renken, in John P. Beal, James A. Coriden and Thomas J. Green, eds, *New Commentary on the Code of Canon Law* (New York: Paulist, 2000), 583, has the same opinion.
48. Can. 544.
49. Can. 526 §1. "A parish priest is to have the parochial care of one parish only. However, because of a shortage of priests or other circumstances, the care of a number of neighbouring parishes can be entrusted to the one parish priest." Can. 520 requires one priest as the "moderator" or "parish priest":
50. Can. 527 §2.
51. Can. 543 §2, 3°. ... in juridical affairs, only the moderator acts in the person of the parish or parishes entrusted to the group.
52. Congregation for the Clergy et al., "Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests, in Voestman, *The Sacrament of Orders and the Clerical State*, 291:
53. article 1, §3, "it is unlawful for the non-ordained faithful to assume titles such as 'pastor', 'chaplain', 'coordinator', 'moderator' or other such similar titles which can confuse their role and that of the parish priest. who is always a bishop or presbyter" Congregation for the Clergy et al., "Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests": in Voestman, *The Sacrament of Orders and the Clerical State*, 291. A footnote states: "Such examples should include all those linguistic expressions which, in languages of the various countries, are similar or equal and indicate the function of a leader or his vicar":
54. Can. 517 §2. in any one parish there is to be only one parish priest, or one moderator in accordance with Can. 517 §1; any contrary custom is reprobated and any contrary privilege revoked.
55. Can. 151. The provision of an office
56. James Provost, "Canon 517: Priest as Moderator of Parish": in A. Espelage, ed., *CLSA Advisory Opinions 1994-2000* (Washington, DC: Canon Law Society of America, 2002), 135.
57. Renken, in Beal, Coriden and Green, eds, *New Commentary on the Code of Canon Law*, 688.
58. Can. 150.
59. Ian Waters. "Canon 515: The Obligation of the Diocesan Bishop to Hear the Presbyteran Council before Altering a Parish": in Canon Law Society of America, *Froman Replies and Advisory Opinions 2002*, 95-96.
60. 55 John Huels. "Seminar: Parish Ouster/Suppressions; in Proceedings of the Thirt-Fourth Conference. Canon Law Society of Australia and New Zealand. 2000. 66.

61. 56 Can. 122, When an aggregate which is a public juridical person is divided in such a way that part of it is joined to another juridical person, or a distinct public juridical person is established from one part of it, the first obligation is to observe the wishes of the founders and benefactors, the demands of acquired rights and the requirements of the approved statutes. Then the competent ecclesiastical authority, either personally or through an executor, is to ensure:
62. 1° that the divisible common patrimonial goods and rights, the monies owed and the other liabilities, are divided between the juridical persons in question in due proportion, in a fashion which is equitable and right, taking account of all the circumstances and needs of both;
63. 2° that the use and enjoyment of the common goods which cannot be divided, be given to each juridical person, and also that the liabilities which are proper to each are the responsibility of each, in due proportion, in a fashion which is equitable and right.'
64. Can. 123. On the extinction of a public juridical person, the destination of its goods and patrimonial rights as also of its obligations is ruled by law and the statutes. If the statutes do not deal with the matter, the goods and the patrimonial rights go to the next higher juridical person, always with due regard for the wishes of the founders and benefactors and for acquired rights. On the extinction of a private juridical person, the destination of its goods and obligations is governed by its own statutes.
65. James Provost, "Some Canonical Considerations on Closing Parishes"; *Jurist* 53 (1993); 362-370.
66. Can. 529 §2, The parish priest is to recognise and promote the specific role which the lay members of Christ's faithful have in the mission of the Church, fostering their associations which have religious purposes. He is to cooperate with his proper Bishop and with the presbyterium of the diocese. Moreover, he is to endeavour to ensure that the faithful are concerned for the community of the parish, that they feel themselves to be members both of the diocese and of the universal Church, and that they take part in and sustain works which promote this community.
67. Congregation for the Doctrine of the Faith, [Communionis notio, May 28, 1992, no. 9](#)
68. Procedural Guidelines for the Modification of Parishes.
69. Can. 1215
70. §1. No church is to be built without the express and written consent of the diocesan Bishop.
71. §2. The diocesan Bishop is not to give his consent until he has consulted the council of priests and the rectors of neighbouring churches, and then decides that the new church can serve the good of souls and that the necessary means will be available to build the church and to provide for divine worship.
72. Can. 1222
73. §1. If a church cannot in any way be used for divine worship and there is no possibility of its being restored, the diocesan Bishop may allow it to be used for some secular but not unbecoming purpose.
74. §2. Where other grave reasons suggest that a particular church should no longer be used for divine worship, the diocesan Bishop may allow it to be used for a secular but not unbecoming purpose. Before doing so, he must consult the council of priests; he must also have the consent of those who could lawfully claim rights over that church, and be sure that the good of souls would not be harmed by the transfer.
75. Can. 1300. "The intentions of the faithful who give or leave goods to pious causes, whether by an act *inter vivos* or by an act *mortis cause*, once lawfully accepted, are to be most carefully observed, even in the manner of the administration and the expending of the goods, without prejudice to the provisions of Canon 1301 §3," Cf. Also canons 1267 §3; 1284 §2,3°.
76. Can 532.
77. Pope Francis, Apostolic Exhortation, [Evangelii Gaudium](#), 24 November 2013, 28;
78. 66 St John Chrysostom, De Incomprehensibili, 3, 6: Patrologia Graeca 48, 725.