



ELEPHANTS IN THE LIVING ROOM

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THE PARISH IN A TIME OF DIMINISHING NUMBERS OF PRIESTS

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DETROIT MI

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INTRODUCTION

BISHOP TOM GUMBLETON

We welcome Fr. Jim Coriden to Detroit and to the Elephants in the Living Room. Fr. Jim is a professor of Canon Law on the faculty of the Washington Theological Union. He is one of three general editors of *The Code of Canon Law: A Text and Commentary*, commissioned by the Canon Law Society of America. He is also the author of *An Introduction to Canon Law* (Paulist Press) and *The Parish in Catholic Tradition, History, Theology and Canon Law* (Paulist Press). He recently published, *The Rights of Catholics in the Church* (Paulist Press), which is available today.

Today, we have asked our esteemed colleague in Canon Law to share insights on the parish and the rights of the parish in a time when we are experiencing diminishing numbers of priests and our own archdiocese, along with many other dioceses in the United States, strategize to reduce the numbers of parishes in light of declining numbers of priests.

Fr. Jim Coriden.

THE PARISH

FR. JIM CORIDEN

I am just delighted to be with you. I was going through some files the other day – I never throw anything away – and I came upon this file from 1989; and it's what Tony Kosnik sent me in the last crisis of parishes in Detroit (Laughter) – the 88-'89 closures under Ed Szoka. He communicated with ten different canon lawyers - he's got a list of them; I'm not at the top of the list either by the way. I'm number five on the list. I don't know what the criterion was, but Tony was consulting a bunch of us about how do you make an appeal against these decisions that were made in September of '88 and then carried out subsequently in January 1989; and enclosed is a model of an appeal to Cardinal Innocenti, who at that time was prefect of the Congregation of the Clergy, which is where you make the appeal for these kinds of things. Very nice, four or five pages, it's excellent. Tony could get a job still as a canon lawyer almost anywhere. He signed it – it's a model for other pastors to use if they are going to make an appeal about the closure of their parishes. – Reverend Arnold Yamasaki, Pastor of St. Switherins in the Dell, Detroit, Michigan. (Much Laughter) It's an excellent brief to the Cardinal to reconsider the decisions being made here in Detroit about the closure of parishes. Unfortunately, it didn't have a positive effect. The Congregation (of the Clergy) backed up the Cardinal (Szoka), I think, 100%, if I'm not mistaken. We'll talk about that some more.

One final story: in 1975 I flew out to Detroit, as I did today. This was in the summertime in 1975 – similar kind of circumstance: fly out in the morning; fly back in the evening. So, bringing no change of clothes or anything like that with me to interview for a job at St. John's Seminary – they were looking for a canon lawyer at the time – Jim Rose was the rector, lovely staff of people treated me very kindly. On the way out here, on Northwest Airlines – you won't believe this – but maybe some of you who have similar hair styles as mine might believe that I had a full breakfast on that flight: eggs benedict. Would you believe that they served eggs benedict on a flight these days, you're lucky to get a pretzel. But I'm chowing into my eggs benedict, flying from Washington to Detroit, and I pulled the whole thing over into my lap. (Much laughter)

What's the kind of sauce that's on eggs benedicts? Hollandaise sauce? I'm wearing navy blue trousers and no change of clothes at all, all over my lap. I go back to the lavatory, and I do what I can with the paper towels, and that sort of thing, but I looked a mess, or at least I felt I looked like a mess. All day long at St. John's Seminary I'm going into these interviews; and I'm saying they must think I'm a sexual deviant or something, or some sort of pervert or something like that. (Much, much laughter) And I can see them as I walk out of the room rolling their eyes and saying "How can we get this guy out of here before he harms somebody or something like that." I didn't get the job; (Loud Laughter) it's not surprising; and I don't know why. They never said why, they were kind enough to be gentle with me. They paid my plane fare and were glad to get rid of me – one of the most embarrassing moments of my life. I hope this is not going to be that way.

Canonical Vision: The community has priority over the ministry or ministers within that community.

If you remember nothing else of what I say – you will probably remember very little of it – I am going to try and move through that outline fairly quickly, so we can spend time talking about what you want to talk about – what you think The Elephant needs to be described as. But the one point that I think is absolutely critical: and that is that the community takes precedence over the ministry within it. And that's a canonical vision, that the community has priority over the ministry, or the ministers within that community. And the structure of the Code of Canon Law – I brought my nifty little Latin Canon Code because I didn't want to carry the big one – is just that way.

When you look at the universal church, or the diocesan church, or the parish church, or any of the ones in between, the Code always treats first the community and its members: the people of God and those who are members of each level of that, of those levels of Church, and then the ministry within it: the universal church and then the college of cardinals, then the pope; the diocesan church, and then the diocesan bishop, and those who assist him; the parish church, and then the pastor, and the associates, and those who assist them in their work of ministry. And that's a theological concept, not just a canonical one. The community has priority, and that's what I think ought to be ruling our decisions in these painful times. The times are painful for other than the declining number of priests. There are other problems that face us, but I think that that one truth has to be kept, if not foremost in our minds, certainly in our minds all the time.

Let me say just a few words about the history of a parish. I'm beginning to think that there might be a parallel paradigm or a parallel development that we might learn from, but I'm not sure. Anyway, all I really want to say about the history of parishes is that it hasn't been like a straight line development from the house churches that Paul founded in the towns, both in the East and in the West, in his travels; it hasn't been a one straight line trajectory from those to our present parishes. There's been many vicissitudes along the way – strange kinds of historical developments. But the earliest forms of Christian community were those house churches and the city wide churches that he spoke to, and his disciples founded and developed, whether it's the Church that meets in the house of Aquila, or all of those house churches in Corinth or in Philippi. Those are the two main meanings of church – local church – in the New Testament time. And we are in continuity with that; and our local communities are the same kind of communities of believers enlivened by the Holy Spirit that those were.

Second Development: Bishops lose personal contact with members of community.

There was a second development, in like the third and fourth centuries particularly. Christianity formed in the urban centers. Paul went from city to cities – small city sometimes, and the earliest leaders, the bishops or elders. were in those cities; and only gradually, after Constantine, the early fourth century, did the Church spread out into the rural areas and the tiny little villages and towns; and as it did, the bishop of the town sent the presbyters – sent the elders – out to take care of that rural community. So, you have that dispersion, a dispersal, and an increase in numbers that was huge; and the bishop sort of lost personal contact with the members of the community; and the presbyter, the elder, had the immediate pastoral contact with the local Church.

Third Development: A local duke, prince, ruler or landowner was the owner of the church.

Then there was a third development – sixth or eighth century, something like that – where the key locus, the key place, was the so-called baptismal churches – the main churches in any area where there was still urban, or more rural, that had the right of baptism. Other churches, like shrine churches or chapels or

missions, didn't have the right to take in new members. Only the bishop's church or the main churches of the area had baptismal fonts – had places where new members could be baptized – were brought in.

So, those were the principal churches, the main ones associated with the more popular saints, and that sort of thing. And then a very peculiar development that I would never have guessed: in about the eighth century, in the feudal times, where larger society had broken down and local rule, a local duke, or prince, or ruler, or landowner was in charge of everything. There was no sort of higher society; there wasn't any larger public but this local landowner and the serfs who worked for him. He was the owner of the church just like he was the owner of the mill where the grain was ground into flour. He could hire and fire the local pastor just as he hired and fired the guy who ground the grain into flour. It was part of his manse, his estate. In other words, the church was privatized. It was brought under lay control in that sense the duke or the lord, or sometimes it was the bishop or the abbot; but whoever owned the territory, owned the church, and named the ministers within it. That's a terrible situation, because the quality of the ministry depends on how concerned the lord is about his peoples' spiritual health. Maybe he doesn't care at all. Maybe he just makes his elder son the pastor of the parish, or his cousin, or whoever. It was very often that way. It was a terrible state of things.

Fourth Development: Local churches set up by emperor, Charlemagne and his successors, were endowed with some form of income.

And then it, sort of like – sort of like isn't exactly elegant English – it developed into a pattern of local churches, set up really by the emperor Charlemagne and his successors in the ninth century, to provide for the peoples spiritual welfare, they endowed all of the churches with some form of income, whether it was an orchard, or a flock, or fields of grain, a source of income to support the pastor, so that the pastor didn't have to be supported by the people directly; but he got a tithe of the land. He got enough of the first fruits, enough of the income from the endowment of the church, that it was permanently provided for. It was a very clever system; and all over northern Europe; for centuries, that's how it was. There was a church, a designated place, and some kind of an endowment for it, usually an agricultural endowment, and that supported the pastor and kept that place going throughout the whole Frankish empire for a long time, and Great Britain as well. And from that we called that a benefice system. The office of pastor was accompanied by a source of income. He had a pastoral responsibility and a guaranteed source of income. The two together are called a benefice. And that's how parish was defined from the twelve century right up to our own century, right up to the 20th century, that is. For all that time, a parish is defined mainly in terms of an office with a spiritual or pastoral purpose, combined with a reliable source of income that that person had a right to – combined those two things into. That was the canonical vision of what a parish was up until and including the 1917 Code of Canon Law.

American Experience of Parish

Finally, just a word about the American experience of parish: in the nineteen and twenty centuries – largely an immigrant community, but lay led in large part – many, many thousands of parishes were established by lay persons: Irish, German, Polish, Czechs, whoever came in the various waves of immigrations. They carry on the faith; they form the community; and they ask the local bishop, or some bishop or priest over in Europe, to come and aid them, to lead them, to staff their parish. Many of the parishes were not only lay initiated in that way, many thousands of them, but they were then also lay led. The trustees of the parish really had title to the property of the parish, and had a large say in the appointment of pastors. Now sometimes, that led to conflict; but most of the time, it did not; and it was a very successful pattern for the better part of 150 years in this country – that may be a little bit exaggerated, but not all that much. So the present sort of top down structure evolved, and has been in place for a long time; but it's wasn't the way things began in this country, or lasted for at least a hundred years of the history of our Church in the United States.

Let me just go back to the development, because the development of this third and fourth century, where the church moved from the city out to the villages and the bishop lost immediate contact with the people and had supervisory roles with the priests and sometimes deacons who lead those rural parishes, a similar development may be happening now. In other words, the priest who's assigned three or four or five parishes to be pastor is no longer, I don't think, is going to be able to have a personal contact with those people any longer. He may at the one that was his parish, or where he lives, but the other ones that he

circuit rides or supplies, there's got to be some other kind of pastoral person there, some other leader of that community. And that kind of development may be here for a long time. It may influence the whole structure of ministry in the Church. Those local leaders who are empowered to a certain extent, and whose empowerment is growing, may be a new level, a new wave of pastors. It has just occurred to me in the last few days that that might be what's happening - good or bad – but it might be a development that's going to reshape ministry permanently.

Theology of the Parish

Let me just say a few words about the theology of the parish - not that many words; that was way too many words. The theology of the parish was very, very late developing – really only in the 20th century. And that's an extraordinary thing when you think ecclesiology. The theology of the Church was late developing too. Up until 1300, there was no treatise on the Church as an object of theological studies. We studied Christ; we studied the Holy Spirit; we studied grace; we studied mission; we studied salvation, all kinds of theological things; but we didn't study the Church itself. Then it became a serious object of theological reflection, but mainly at the top - mainly what of the authority of the pope: the pope vis-à-vis a secular authority; the pope vis-à-vis the bishops. What's the authority of a bishop? What's the source of his authority? Is it delegated from pope? Does it come from his ordination? All those kinds of things are what preoccupied us; not the nature of the local Church; not what is a parish; what is its sense of autonomy, or independence, or communion? What is the nature or the characteristics of the local Church? That's very late arriving. The most authentic, but very brief treatment of that is in Chapter 26 of the Dogmatic Constitution of the Church, *Lumen Gentium*, the central document of the Second Vatican Council. And it simply says – it doesn't simply say this, but it is a very brief description of the local church, meaning the local parish: a true presence of the church of Christ. The parish is a true presence of the Church of Christ. In their own locality, they are the new people called by God in the Holy Spirit. In them, the local churches, the faithful are gathered together by the preaching of the gospel of Christ; and the mystery of the Lord's Supper is celebrated. In these communities, frequently small and poor and distant, Christ is truly present. That's a summary of that paragraph 26. It's a very beautiful, but terse statement, about this level of local Church.

Karl Rahner, who's written well, both before the Council and after the Council on the local Church, called it: "The local parish community is actually the concrete reality of the Church" – that concept of materializing that Church in this place, making it actual, making it real in this place – not a branch office. It's not a local McDonald's, or Esso station, or something like that; it's the real thing – here. It's small; but it's the full Church, here present, locally. The human reality, us: the human beings who make up that Church at any given time are part of the essence of that Church. It doesn't exist apart from them, or above them or behind them somewhere. We are the Church; we are the people of God, but in a human reality those present here and now in this parish are that reality of the Church enculturated in their own context, their own tradition, their own language, their own history, their own sense of custom and tradition, and in their own environment. That reality, that human localization, is part and parcel of what the local Church is.

Canonical Status of the Church

The canonical status of the Church – much less interesting; I'll make it mercifully brief. The canonical status: my point number three. This new Code – we still call it new, going on twenty-five years old now., 1983 Code – defines the parish, not as a benefice, not as a source of income for the pastor, so a place is provided for the stable leadership, but as a community of the Christian faithful. That was part of a mailing that went out, a commentary on Canon 515: that's the definition of a parish: a community of the Christian faithful. A defined community is somehow described, either this side of route 28 and to the town line, or wherever, or by a language group that forms the parish. It's either territorial or personal – some kind of ethnic or language parish, or a certain defined territory. So it's a community that's described territorially usually, or else personally; established on a stable basis, so it's not a temporary thing. It's not just a meeting place, or a place that's in the summertime for a few months, or something like that; it's established on a stable basis within a particular church, within a diocese. Those are the defining elements of a parish in the new code of canon law: a defined community of the Christian faithful established in a stable manner within a diocese.

Then, as part of that same canon, it describes that parish – but this is not an essential element – as entrusted to a pastor as its shepherd, under the authority of the diocesan bishop. Back to Canon Law – back to Canon 1: “The bishop is always in charge!” (Laughter) But the point – and canon lawyers have made much of this – that it’s the community of the faithful that is the primary constitutive of what a parish is in the law – in the canonical tradition. The other element, paragraph 3 of Canon 515, says, “By its very establishment as a parish, it’s a juridic person.” It has legal personality. It is the subject of rights and duties in the law. It has autonomy apart from the people who make it up, or apart from the pastor. It’s a juridic person of and unto itself, like, if you go into business and form a partnership or a corporation, there is an entity there that is beyond the individuals who make it up. It is recognized in the law, has standing, can own property, can sue, can be sued; it’s its own entity. So every parish, by that the fact that it is established, has a juridic personality in Canon Law; it has a legal status. And that’s notion of a juridic person, like that of a corporation, is perpetual. A corporation doesn’t go out of existence in 25 years; there isn’t any time term on it. In the same way as the parish, it’s permanent. The juridic person, it says in the law, Canon 120, it’s perpetual by its nature, not a temporary thing, not for a term of years, but a perpetual thing. But it can be terminated by the bishop. He can suppress the parish only after consulting with the priests’ consul. We’ll get to that in a minute. Okay, so much for the canonical status.

The rights of parishes

The rights of parishes: this is a horse that I’ve been whipping for years now, because one of the big breakthroughs of the 1983 Code of Canon Law was that it itemized for the first time the rights of Catholics in the Church. There’s a Bill of Rights in the front of the Second Book of the Code; Canons 208 to 231 is a Bill of Rights, literally. They don’t ring like our Bill of Rights does in the Constitution, but they have a similar function. It’s to say you belong to this organization; you’re members; you’re in communion with the Catholic Church. These are your rights; and these are your obligations. They are listed there, the first time. Canon Law has been here, for eighteen centuries anyway; and they never had a list of rights and duties before. Now they do. But what they don’t have is a list of rights and duties for the communities, for the local communities. They have them for religious communities, but not for the local communities like the parishes. But they’re there; the community does have rights. They’re just not that articulated. They’re just not been spelled out. So that’s what I tried to do with that little book – that was my main point in writing it. Let me just mention eight of them – I dug around and crafted twelve of them; these are just eight of them:

1. *The right to an existence*

And the first one is the right to an existence, to remain in existence. It’s a corollary of what I just said before. A juridic person is permanent; and as long as that parish can provide for itself, as long as that parish in contemporary terms is viable or vital, has signs of life, can sustain itself, it deserves to remain in existence. And that’s a basic sub strain. I don’t want to read it; there are two paragraphs about it. But that’s basically it. There’s no reason a parish should be closed, if the parish can be maintained. We’ve all known and seen parishes that couldn’t be maintained, right? Literally, the people are gone; the money is gone; the buildings are falling down. You can’t maintain every parish that ever existed. There’s no point in that!

But what I keep thinking of is, some of these – many of you have been to Europe and have seen the little parishes in the country that have been parishes for 800 years; and there may be some people there, or there may not be. They may be sustained by a grant from the state, as some sort of historical/architectural memorial, or something like that, but they never close parishes over there like we close them here. Pittsburgh in a few years closed one-third of their parishes, closed or merged or clustered, 73 out of 221, or something like that, in just a few years. In Italy they wouldn’t have done that in a millennium – believe me. The little, itty, bitty village on the mountaintop has still got two or three churches in it; and they’re all there – probably don’t all have pastors now, but anyway, I don’t want to get exorcized about that.

2. *The right of parishes to maintain communion*

The second right of parishes is to maintain communion – to be in communion with all of the other parishes; and within the diocese, to maintain that sense of communion. Being

in communion is being a member of the Church, being fully on board, being a committed tied in Catholic Christian, recognizing the bishop, recognizing the bishop's authority, taking a leadership, but also in communion with all the other parishes in the diocese and in the world – that sense of being in communion. It's an obligation to maintain it. Canon 206 describes it; and Canon 209 talks about that obligation to maintain it; and it pertains to parishes just as it pertains to individuals.

3. *The right of parishes to hear the word of God and celebrate the sacraments*

The third right of parishes is to hear the word of God and to celebrate the sacraments. The very basic building blocks of our sense of ministry is the ability to transmit the Word of God, to hear and reflect upon it, and to celebrate our sacramental life together – a basic right of all parishes; and that's the one that's compromised when there isn't a celebration of the Eucharist on Sunday, at least. And many, many parishes now in our country are without the Sunday celebration of the Eucharist, because there aren't enough priests; and we won't let anybody else lead the celebration of the Eucharist. And so there's this sort of sense of spreading famine – a Eucharist dearth, a lack of Eucharist. – Word and Communion Services, but not a celebration of the Eucharist. And that's in a sense an infringement of the basic rights of the parish – I'm talking about Canons 213 and 214 specifically in that one.

4. *The right to pastoral leadership and ministry.*

And the fourth one is the right to pastoral leadership and ministry. The ordinary structure is a pastor – a priest pastor for each parish. But if that's not possible, the parish community still has the right to pastoral leadership and ministerial care. The code provides for some alternative forms that that can take when there isn't a priest pastor; and that's a basic right; it's not a privilege of some kind. It's not some sort of a concession, because you've been good, because you've turned in money to the diocese, or something like that; it's a basic right of that community of people.

Finally, the local parishes have the right of formation and education – to understand, as much as we can understand, faith, and to deepen it, and to hand it on – that our community is formed in the faith in an ongoing way, from the RCIA programs to confirmation programs, to high schools, to whatever form of faith formation that can take place within them. That's a basic right of the community.

5. *The right of information.*

Number five is the right of information, which is also one of the rights of the parish, but it was singled out in my conversations with Bishop Tom (Gumbleton) and the others I've talked to before coming. But that's one of the issues here is: we're not sure we're getting the information we need to make good decisions about our communities. And I think that that is a basic right of parishes as well. I would have found that right on the attitude of well, canonically and theologically, on the right and duty to actively participate in the Church. We're not just called to be passive members of the Church, not just there on Sunday, or not there on Sunday, for that matter, to be entirely passive. But we're invited and ordered to be, asked to be, invited to be, active participants, sharers in the Church's life and ministry. You can't do that if you don't know what's going on; if you don't know what the resources are; if you don't know what the constraints on them are; if you don't know what the past and future are of this community, and of the larger church of which you're a member. That sense of active involvement and engagement is more than suggested in Canon 204, which talks about what it means to be a member in full communion in the Church.

And then I would base it secondly, the right to information, I would base on the right of communication. There's a very interesting canon 212 in that section on the Bill of Rights of the Church; and it's the right to express one's needs and desires and opinions to the sacred pastors – and by that they mean mainly the bishops; but it also means anybody in

pastoral leadership. We, as individual members of the Christian faithful, the canon says, have the right to express to them our needs, our sense of needs, our desires for our Church, and our opinions about the Church. Well, again, you can't exercise that if you're not informed, at least to some extent. You're informed by what you see and witness around you – what you read and hear – but you've got to be fully informed to express yourself intelligently, right? The basic corollary of that right, the right of free speech, is like that of the First Amendment – the closest we come to the First Amendment – it doesn't read quite the same way. And then there's passages in the Second Vatican Council, particularly in that Dogmatic Constitution on the Church, *Lumen Gentium*, that we are to communicate within the Church as brothers and sisters in Christ, that the hierarchy, pastors and bishops, are to promote the responsibility of the laity – not tolerate it – promote the responsibility of the laity, and make use of their prudent council - not only listen to them and promote their engaged activity and sense of responsibility, but make use of their prudent council.

There's one further canon that you can use to support the right of financial information – and again it's not complete. It's not as sweeping as many of us would like, but Canon 1287 in the section on the code of Church property says that those in charge, the administrators of church property, pastor of a parish, bishop of a diocese, abbot of a monastery, whoever is the administrator of the Church property, has the obligation to report to those who supported it, who gave money to the Church, or endowed property, or something like that. They have to be accountable to them. And in our Church, that's all of us; that's everybody with envelopes, right? That's everybody who is contributing in any way, and to a greater or lesser extent, most parishes and diocese do that to a greater or lesser extent. Some kind of financial disclosure is, I think, part of every parish and diocese.

6. The right of claiming or vindicating parish rights.

My sixth point is claiming or vindicating parish rights – how do you express them; how do you get somebody to pay attention to them? And that's the weakest part of our legal structure. When this code was being formulated, between the Second Vatican Council – so from 1965 to 1983 – one of the primary requests, three times in the basic documents, they ask for a better sense of peoples rights: the members of the Church, their own rights and how they can vindicate them; how they can actually claim them; how they can say, "But wait, I'm not getting the information," or "My daughter was denied confirmation, or "When you feel you've been aggrieved or something, where can you go"? And that remains the weakest part.

When the code was first drafted – now this is as late as 1978 or 1980; it came out in 1983 – there was a special section on administrative tribunals: so administrative courts. They're modeled on a European sense of the European legal system that has Courts of Magistrates – not a judge, but a magistrate – sort of a lower level of court, where if you were offended by an administrative decision – the mayor acted in a discriminating manner to you, or the city council passed legislation that infringed on your business, or something like that – you could take it to this magistrates court: a place to adjudicate administrative decisions. They built that into the Code, and then decided to take it out, and left it out. They felt, and maybe they were right, it was too burdensome especially for smaller dioceses and other cultures, where it was really a strange creature; and they don't have the same sense of law and personal rights and vindicating them that we do; so they dropped it out. So basically, we are without a judicial avenue. Suppose they remove the pastor, or something like that, and you want to protest the fact that you think he's a pretty good guy and he ought to stay here. That's an administrative decision of the bishop; and you can't pursue it in a Church court. And (Canon) 1400 says you can't bring an active administrative decision making to a Church court.

So where can you take it? Well, I suggest there are three paths; there are three avenues:

- First...Gospel Path

And the first one, to settle a dispute where think your rights have been denied, is the gospel path. And that's a reference to Matthew: 18, where he says, "If somebody has sinned against you, somebody has aggrieved you, if another member of the Church sins against you", in this case, the bishop, by removing my pastor, "go and point out his fault between the two of you alone. If the member listens to you, you have regained that person. If you are not listened to, take one or two others along with you, so that every word may be confirmed by the evidence of two or three witnesses." (A Jewish practice, to try to settle a dispute with a mediator or another witness, somebody bringing objectivity to it) "If the member refuses to listen to them, tell it to the Church. And if the offender refuses to listen even to the Church, let such a one be to you as a Gentile or tax collector" Matthew 18:15-17. It's an ancient practice, which must have been a practice in Matthew's Church at the time, of trying to settle disputes within the Church without taking them to the courts – the Greek or Latin Roman courts. Settle the dispute at home, first personally if you can, and then with some kind of a mediator or intermediary of some sort, and then some sort of Church adjudication. That still is possible and is still done in many places. Informally, we still do the appeal back to the bishop and say, "Now look, for these reasons we think that's a bad decision." Even Ed Szoka changed his mind on some of those closing of parishes back in '89; and some of them remain open today; not a lot, but some.

- Second...invoke conciliation or mediation or arbitration

The second path is what we call in American Civil Law, *Alternate Dispute Resolution* – so, not taking it to court, but trying to invoke either conciliation, or mediation, or arbitration. In many civil jurisdictions now, the judges insist that you try those other avenues before you come before his court, because his court is a very expensive operation, and the system can save a lot of money by having a mediator, or conciliator, or an arbitrator, solve the dispute between neighbors, between companies. It's very widespread in American law and spreading very fast. The code explicitly encourages that; recommends it. Avoid disputes; avoid litigation; take it up in a grievance procedure; hire an arbitrator; get someone to act as a mediator in the dispute.

There's three different times in the code those kinds of procedures are recommended. And in some dioceses they exist and they work – not many. A lot of diocese – forty percent, or something like that – have a grievance procedure on the books at least. And back in '89, some of you tried to get the parish closing dispute settled in the grievance procedure here in Detroit, and were told that they didn't have jurisdiction over it – if my information is correct – but that avenue was tried here, and there rules are written – I don't know what particular rules – excluded those kinds of disputes from their jurisdiction, from their action.

- Finally...administrative recourse

Then finally there's this process that Tony Kosnik's brief was in the midst of, called *Administrative Recourse*; Canons 1732 to 1739 of this Code is a process of Administrative Recourse. It imitates Matthew's Gospel in a certain sense. First you get a decision ... "Father you're being moved," or "parish you're being closed" – an administrative decision by the bishop, or by the superintendent of the schools, or by the director of charity, by some administrator. And you first go back and say, "No, for these reasons: my mother's dying, and she lives nearby, and I'm not going to be transferred 100 miles away; no!" So you try to bring the case back to the person who made the decision. Or you go over their head. Administrative Recourse really means taking recourse to an administrator superior to the one who made the decision. You go over the superintendent of schools' head, to the bishop; you go over the pastor's head to the bishop, or somebody else that the pastor is responsible to in the diocesan structure of things. So, it's a period of recourse that goes over the head of. It goes first to the person; and if they refuse to reconsider the decision, it goes over their head. And over the head of the bishop is the Congregation of the Clergy, in the case of parish closings, and the one Tony was writing the brief to: Cardinal Innocenti of the Congregation of the Clergy in Rome.

And that's a legitimate procedure, and sometimes it works; sometimes it really works! It's official; it's legal, if you do it on time – there's strict time restraints. Take the first action within ten days of being notified pending that decision, fifteen days to go over the head of the superior who made the decision. But it's legal, and it's respected in Rome and elsewhere and some places, and actually can work. It didn't work in that case in 1989 with those parishes. A lot of these parishes, as you well know better than I, did make that appeal to the Congregation of the Clergy. But the Congregation for the Clergy, in these kinds of decisions won't second guess the bishop. They won't say, "Oh well, if the income was \$55,000 then it could have stayed;" or "if the number of parishioners was 400 rather than 300 it could have stayed;" or "if a pastor was only 65 years old rather than 75 years old, we'd keep the parish." They won't second guess that kind of substantive matter; they'll only say, "Bishop, did you follow the procedures? Did you investigate in advance? And did you consult the Presbyterial Council? Did you hear the Senate of Priests in the matter before you made the decision final?" They'll only reconsider it on procedural grounds, not on substantive grounds. And of course, Cardinal Szoka had carefully followed procedure. I guess he did, because they didn't overturn those decisions.

There's one case that happened to Cardinal Joe Bernadine a few years ago, before he died obviously, (Laughter) in Chicago Heights, Illinois, a little suburb on the south side of Chicago, where a parish was pretty well moribund, an Italian parish, but all the Italians had moved out of the center city, and even the pastor didn't particularly care to keep the parish open; and so, Joe Bernadine said, "For our plan in the Chicago Heights area, we're going to close St. Rocco's parish." And he talked to the Priest Senate and the Priest Senate said, "Nobody wants to go there. Sure. Go ahead. Close it." But two parishioners happened to have Italian names and happened to have friends in Rome – two parishioners, not members of the parish council even, but just guys who'd been there for a long time – members of that parish wrote over to the Congregation of the Clergy and when they didn't get satisfaction there they appealed it to the Supreme Court in Rome, the *Apostolic Signatura*. And the Signatura wrote back and said – this was for us canon lawyers the significant effect – they had standing to sue. They had standing to claim those rights, just two parishioners, two ordinary guys. I'm not even sure they were rich guys.

They recognized their investment, their spiritual investment, in that parish was enough to bring a case that procedure had not been followed. And they wrote the decision, the *Signatura*, the High Court wrote the decision that – the guy who wrote it is now the Archbishop of St. Louis – that indeed Joe Bernadine had the plan already made and finished before he consulted the Priest Senate. He didn't really hear them. He didn't really listen to them. You're not required to really following the decisions of the Priest Senate but you have to pay attention to them. Now, as I said, they didn't care, they were not protesting anything at all. These guys said he didn't really hear them. He didn't follow procedures. And they made him reopen the parish; and Joe was livid. And Joe consulted – believe me, the second time around – he really consulted the Priests' Council and went back over there and said, "I'm not leaving this office until you accept this closure decision." And he got it, of course. Anyway that's just a side story. Let me finish off seven and eight in a hurry.

7. The basic right of association

There's somebody, in the stuff that Bishop Tom (Gumbleton) sent me, that talked about the connection of the parish to social justice. And in my book, I point out four ways in which the social teaching of the church supports parishes – supports the natural right of parishes to exist, and to continue to exist. And those four are: the basic right of association, basic human right. It's recognized by the United Nations and by everybody that we have the freedom to associate with one another in voluntary associations. I won't say any more about that. It's a basic human right that's been recognized by the Church as well as by everybody else.

8. The principles of common good, solidarity and subsidiarity

And secondly the principle of the common good, which is a basic principle of Catholic social teaching. And one of the signs of the common good is the recognition of the rights of the members of the community. Our personal rights are not against the common good; our expression of them enhances the common good – the fact that we can attain our personal perfection better if our rights are recognized and pursued.

Thirdly, the principle of solidarity. And that's a principle that Pope John Paul II articulated more than any of his predecessors. It's the principle of recognizing our mutual interdependence – how we as human beings, and in society, are mutually interdependent; we rely on one another – and elevating that recognized interdependence to the level of a virtue. He called that virtue: solidarity – that we recognize how interdependent we are; and we respond to that responsibility of ours.

Finally, the principle of subsidiarity, which you have heard of much more than that – the principle that a lesser society should not be interfered with or overruled by a higher level of society, a more perfect higher society. Its decisions ought to be their own; and they ought to be allowed to continue in existence with their own sense of autonomy. It's more complicated than that, but it's a long standing principle of Catholic social teaching, and acknowledged as applicable within the Church by two successive popes: Pius XII and Paul VI.

Finally, and we'll talk more about this in our conversation, I'm sure, changes in parishes. In Canon Law 515, the second paragraph, talks about the bishop to create, or suppress or notably alter a parish must consult the Priests' Counsel. So those are the critical decisions when a parish is going to be created, the neighboring pastors care a great deal about that, and so should all of the Church. When a parish is going to be suppressed, there's a different level of care. There's also a very critical decision. And when a parish is going to be notably altered, changing the boundaries, maybe consigning it, giving it over to keep, entrusting it to a religious community, a notable alteration in that parish is also a very significant step; and the bishop has to take counsel in order to do it.

And finally, nowadays we talk in these terms of clusters and merging and linkages of relating parishes in new and different ways; and that can mean a lot of different things. I was asking Pastor Gerry (Bechard) and Bishop Tom (Gumbleton) on the way in, "What does clustering mean here?" And they said, "Well, that that means that one pastor is the pastor of one, two, three, four or five parishes. That's what clustering means here." Those are new developments. They're not canonical developments unless there's a suppression or a merger of parishes that take place in that context.

Enough! I'm sorry I went overtime. (Applause)

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