



CONGREGATIO
PRO CLERICIS

Vatican City, 9th January 2006

Prot. N. 20052561

Mr. John Ryan
155 Ford Road
Sudbury, MA 01776
U.S.A.

Dear Mr. Ryan,

This Congregation has received your petition for hierarchical recourse regarding the suppression of **St. Anselm's Parish in Sudbury, Massachusetts**.

Please find enclosed the canonical response of this Dicastery.

This Dicastery is mindful of article 135 §2 of the *General Regulations of the Roman Curia*, which states that an appeal to the Apostolic Signatura can be made within thirty days.

With assurance of prayers and cordial best wishes, I remain,

Yours sincerely in Christ,

✠ CSABA TERNYÁK
Titular Archbishop of Eminenziana
Secretary

Enclosure.



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DECREE

I. FACTI SPECIES

After an extensive consultation with the priests and people of the Archdiocese of Boston, the Ordinary, the Most Rev. Seán O'Malley, began a project to reconfigure the parishes of the Archdiocese. The Ordinary had determined the need for such a reconfiguration in light of four factors: 1) demographic shifts in population, 2) the decline in the number of priests; 3) the financial challenges of many parishes; and 4) the deteriorating condition of many Archdiocesan properties. On 9 January 2004, the Archbishop wrote to all the people of the Archdiocese and explained his reasoning for such a reconfiguration.

Following further months of consultation with the local area "clusters", Vicars Forane and Auxiliary Bishops, the Ordinary submitted his proposal to suppress the parish of St. Anselm in Sudbury to the Presbyteral Council on 7 May 2004 and carried out the necessary consultation with that body as required by can. 515 §2.

The Archbishop issued his decree *nunc pro tunc* on 23 August 2004, in which he decreed that the Parish of St. Anselm in Sudbury be suppressed with an effective date of 15 September 2004.

In an undated letter to the Archbishop Mr. John Ryan submitted a petition to revoke or amend his decree. On 17 September 2004 the Ordinary responded in the negative to this petition and on 6 October 2004 the same Mr. John Ryan presented a

petition for hierarchical recourse to the Congregation for the Clergy against the dispositions contained in the Archbishop's decree of 23 August 2004.

II. In Iure et in Facto

Can. 50 - Antequam decretum singulare ferat, auctoritas necessarias notitias et probationes exquirat, atque, quantum fieri potest, eos audiat quorum iura laedi possint.

Can. 122 - Si universitas, quae gaudet personalitate iuridica publica, ita dividatur ut aut illius pars alii personae iuridicae uniatur aut ex parte dismembrata distincta persona iuridica publica erigatur, auctoritas ecclesiastica, cui divisio competat, curare debet per se vel per executores, servatis quidem in primis tum fundatorum ac oblatorum voluntate tum iuribus quaesitis tum probatis statutis:

1° ut communia, quae dividi possunt, bona atque iura patrimonialia necnon aes alienum aliaque onera dividantur inter personas iuridicas, de quibus agitur, debita cum proportione ex aequo et bono, ratione habita omnium adiunctorum et necessitatum utriusque;

2° ut usus et usufructus communium bonorum, quae divisioni obnoxia non sunt, utrique personae iuridicae cedant, oneraque iisdem propria utrique imponantur, servata item debita proportione ex aequo et bono definienda.

Can. 123 - Extincta persona iuridica publica, destinatio eiusdem bonorum iuriumque patrimonialium itemque onerum regitur iure et statutis, quae, si sileant, obveniunt personae iuridicae immediate superiori, salvis semper fundatorum vel oblatorum voluntate necnon iuribus quaesitis; extincta persona iuridica privata, eiusdem bonorum et onerum destinatio propriis statutis regitur.

Can. 515 - § 1. Paroecia est certa communitas christifidelium in Ecclesia particulari stabiliter constituta, cuius cura pastoralis, sub auctoritate Episcopi dioecisani, committitur parochi, qua proprio eiusdem pastori.

§ 2. Paroecias erigere, suppressere aut eas innovare unius est Episcopi dioecisani, qui paroecias ne erigat aut suppressat, neve eas notabiliter innovet, nisi audito consilio presbyterali.

§ 3. Paroecia legitime erecta personalitate iuridica ipso iure gaudet.

Can. 532 - In omnibus negotiis iuridicis parochus personam gerit paroeciae, ad normam iuris; curet ut bona paroeciae administrantur ad normam cann. 1281-1288.

Can. 1255 - Ecclesia universa atque Apostolica Sedes, Ecclesiae particulares necnon alia quaevis persona iuridica, sive publica sive privata, subiecta sunt capacia bona temporalia acquirendi, retinendi, administrandi et alienandi ad normam iuris.

Can. 1256 - Dominium bonorum, sub suprema auctoritate Romani Pontificis, ad eam pertinet iuridicam personam, quae eadem bona legitime acquisiverit.

Can. 1734 - § 1. Antequam quis recursum proponat, debet decreti revocationem vel emendationem scripto ab ipsius auctore petere; qua petitione proposita, etiam suspensio executionis eo ipso petita intellegitur.

§ 2. Petitio fieri debet intra peremptorium terminum decem dierum utilium a decreto legitime intimato.

§ 3. Normae §§ 1 et 2 non valent:

1° de recursu proponendo ad Episcopum adversus decreta lata ab auctoritatibus, quae ei subsunt;

2° de recursu proponendo adversus decretum, quo recursus hierarchicus deceditur, nisi decisio data sit ab Episcopo;

3° de recursibus proponendis ad normam cann. 57 et 1735.

Can. 1737 - § 1. Qui se decreto gravatum esse contendit, potest ad Superiorem hierarchicum eius, qui decretum tulit, propter quodlibet iustum motivum recurrere; recursus proponi potest coram ipso decreti auctore, qui eum statim ad competentem Superiorem hierarchicum transmittere debet.

§ 2. Recursus proponendus est intra peremptorium terminum quindecim dierum utilium, qui in casibus de quibus in can. 1734, § 3 decurrunt ex die quo decretum intimatum est, in ceteris autem casibus decurrunt ad normam can. 1735.

Can. 1739 - Superiori, qui de recursu videt, licet, prout casus ferat, non solum decretum confirmare vel irritum declarare, sed etiam rescindere, revocare, vel, si id Superiori magis expedire videatur, emendare, subrogare, ei obrogare.

1. Once erected by competent ecclesiastical authority, a parish is, by that very act, a public juridic person in accord with canon 515 §3 of the Code of Canon Law. Therefore, by virtue of canons 1255 and 1256 this public juridic person does not form part of, and is distinct from, the public juridic person of the Diocese. This is true even when the Diocese might be configured civilly in a different fashion, because the Bishop is bound to follow the canonical norms which regulate the internal ordering of the Catholic Church. While the Bishop exercises vigilance over the patrimonial activities of his Diocese as a whole, the particular rights of each individual public juridic person are guaranteed in law (cf. can. 1256).

2. A parish is understood in Church law to consist of a portion of the Christian Faithful stably established (cf. can. 515 §1). Therefore, a canonical suppression presupposes that this portion of the Christian Faithful no longer exists. Otherwise, any modification to parishes can only be understood as an aggregation, division, or merger of that portion of the Christian Faithful, which in fact continues to exist, and is now reallocated among existing parishes or constituted into a new parish specifically erected for that purpose. While the parish church and the physical parish plant may be closed and the name of a particular parish extinguished, the spiritual needs of the portion of the Faithful which once constituted that parish, must continue to be provided for in accord with their rights in law.

3. In the case where the portion of the Christian Faithful is reallocated among pre-existing or newly created parishes, the corresponding patrimony and obligations of the closed parishes must follow the Faithful in an equitable and proportionate fashion in accord with the corresponding responsibilities and pastoral duties assumed by the parishes *ad quem*. The wishes of any existing founders and benefactors must be respected, as must any acquired rights as expressed in canon 121 or 122.

4. In this particular case the Ordinary applied canon 123 thinking that the goods of St. Augustine in South Boston passed to the higher juridic person of the Archdiocese *ex lege*. However, after reconsideration, and so that the situation be regularized, the Archbishop convoked the pastors *ad quem* and after having discussed the matter, the pastors formally agreed to transfer the assets and liabilities in question to the juridic person of the Archdiocese. This was done for the common good and because the parishes *ad quem* were in a position to assume the pastoral obligations without the benefit of the patrimony of the closed parish.

5. In accord with canon 1739 it is lawful for this Congregation not only to confirm the decree of the Ordinary or declare that it is invalid, but also if it seems more expedient, to amend it.

6. This Dicastery also bears in mind the response of the Pontifical Council for the Interpretation of Legislative Texts, *AAS 80(1988) 1818*, regarding whether a group of faithful, lacking juridical personality and even recognition envisaged in canon 299, §3, can legitimately make hierarchical recourse against the decree of its own diocesan bishop.

III. CONCLUSIO

NOW, THEREFORE, the Congregation for the Clergy hereby decrees:

1. The Most Rev. Ordinary had made the necessary prior consultations as envisioned by the law (cf. can, 515 §2) and came to the conclusion that there existed definite reasons for the closure of St. Anselm Parish in Sudbury, however he has erroneously used canon 123 in this process. **Therefore, this Congregation confirms the decision of the Archbishop with**

regard to the process followed for the closure of the parish, reallocation of the Faithful, and transfer of the consequent pastoral obligations to the parishes *ad quem*, correcting the decree however, by applying canon 122 in the place of canon 123.

2. Considering that the pastor *ad quem* subsequently agreed that the assets and liabilities, (which must and should have followed the Faithful in this particular case), now may be assumed by the public juridic person of the Archdiocese, this Congregation recognizes that such an action is in accord with the law (cf. can. 532). Moreover, the acts provided do not indicate that the recurrent had any juridical motive or justification regarding legitimate titles of foundation, gifts donated for specific ends, nor any rights of specific acquisitions, not respected by the receiving juridic person. **Therefore, this Congregation considers that the object of recourse against the disposition of the Archbishop regarding the assets and liabilities as detailed in his decree dated 23 August 2004, no longer exists as the situation has been remedied in accord with the law.**

Dario Landrottillo

+ brn Gungor
Sec.

Given at the Seat of the
Congregation for the Clergy
9-I-2005