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PROVINCES IN THE ORDER OF ST. PAUL THE FIRST HERMIT. THE LAW, UNIVERSAL AND PARTICULAR

Introduction

In the novitiate foreseen for the whole Order, in the Monastery of Our Lady of Leśniów, Poland, two novice were arguing. One belonged to a Province, one did not. In their argument, the Provincial novices argued for a difference in custom, by concluding that we have a Province. The non-Provincial novice attempted a coup de grâce by saying that we have an Order. Since the experience of Provinces has only recently been restored in the Order, many monks have difficulty understanding what the juridical institution of Provinces is and how it operates in the Order. Some lament that Provinces think they are autocephalous, others ignore their Provincial and communicate with the Prior General at every petty squabble. Others think the Order is too small to have Provinces. Many fail to remember that the title of Blessed Eusebius was *Primis Provincialis* as opposed to *Primis Generalis*.

This article is one of two in a series which examine Provinces in the Order of St. Paul the First Hermit. This first paper itself will examine the Order itself, its history, its juridical status, then the juridical institution of a Province will be defined, that of the Provincial Chapter, the Prior Provincial and that of the Provincial Definitorium. This work concerns itself with the juridical reality of Provinces within the Order and not the Order's history or of its Provinces, as such the paper will only offer as much historical information as is necessary to understand these juridical persons. Provinces have an august history in the Order of St. Paul the First Hermit and, should the Lord of the Harvest permit so, will have such a future. The value of this work is not its completeness, but rather that it presents a unification of many scattered sources and presents this canonical-historic synthesis in the English language.

The Order of St. Paul the First Hermit

Historical overview

§ 1 Ordo Paulinorum - Ordo Sancti Pauli Primi Eremitae (OSPPE) - saeculo XIII in Hungaria ab eremitis originem duxit, qui Ecclesiae vocationi obsequentes consilia evangelica in vita communi profiteri statuerunt. Patronum principalem sanctum Paulum Thebanum sibi elegerunt atque ab eo nomen Paulinorum sumpserunt.

§ 2 Ad Ordinem Paulinorum fundandum Bartholoma Quinque Ecclesiarum Episcopus multum contulit, primam scribendo Regulam, sicut et beatus Eusebius Strigoniensis, qui eremitas dispersos in unum congregavit ac Regulam S. Augustini Ordini nostro impetrabat; cuius spiritu Patres nostri per saecula vivebant¹.

In the great tapestry of a Religious Institute it, at times, is very easy to find the start of its threads. The Pauline Order presents some confusion for Christ's faithful. The Patron of the Order is St. Paul the First Hermit, a 4th century Egyptian hermit, whilst its Founder is Blessed Eusebius a 13th century Hungarian Canon turned hermit². The Order itself came about from the union of the Monastery of St. James of the Patac mountain, Hungary, and that of the Monastery of the Holy Cross, which was founded by Blessed Eusebius on the Pilis Mountain, also in Hungary in 1250. The Monastery of St. James was founded in 1215 by Bishop Bartholomew of the Five Churches,³ also known as Bartholomew le Gros, who was originally from France, the third

¹ The Latin text of the Constitutions is taken from, ORDO SANCTI PAULI PRIMI EREMITAE, *Constitutiones et Directorium Generale Ordinis Sancti Pauli Primi Eremitae*, (Jasna Gora, 1998). Although these are not the most up to date version of the Constitutions, following Canonical Scholarship, these will be referred where possible.

From here on references to these constitutions will be references as Art. For Articles from the Constitutions and Norm for Norms from the General Directory.

The most up to date English translation of the Constitutions are: AUSTRALIAN PROVINCIAL CURIA OF THE ORDER OF ST. PAUL THE FIRST HERMIT, *The Rule, Constitutions and General Directory of the Order of St. Paul the First Hermit*, (Penrose Park, 2019), when the Constitutions, the Directory or the Statutes are referred to in English in this work, it will be to this edition.

² The Order has never sought his Canonization. He is known as Blessed by popular acclamation and the living tradition of the Hungarian nation. To this day, the Order as a tradition does not seek the canonization of its members. Cf: J.S. PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, Częstochowa 2009, 32-33.

³ Cf: G. GYÖNGYÖSI, *Vitae Fratrum Eremitarum Ordinis Sancti Pauli Primi Eremitae*, Edidit FRANCISCUS K. HERVAY, Budapest 1988, 4. From here on: *Vitae Fratrum*.

son of Henri le Gros, Lord of Brancion and Uxelles⁴. Some authors claim that he was a monk of Cluny⁵. He gave the Monastery of St. James its first rule⁶. Blessed Eusebius founded the Monastery of the Holy Cross from his own patrimony in 1250⁷. The origins of both these monasteries were the gathering of hermits, under ecclesial leadership, be it of Bishop Bartholomew or of the Canon Eusebius, to live a communal coenobitical life, whilst at the same time maintaining both the spirit of Egyptian desert eremitism and combining it with the canonical liturgical life known to Blessed Eusebius.

In 1262 Eusebius goes to Rome to request the Rule of St. Augustine for his Province⁸ of his Monasteries. Thomas Aquinas intercedes for Eusebius and his Order before Urban IV,⁹ who then delegates the execution of this act to a Hungarian Bishop¹⁰. This finally happens in 1308, when Gentile Portino da Montefiore, the Papal Legate to Hungary, grants the Order the Rule of St. Augustine¹¹. Eusebius dies in 1270 and is succeeded by Benedict as Prior Provincial of the Order, who in turn was Provincial for 20 years¹². During the Octave of Pentecost in 1309, the first General Chapter of the Order is held in the newly built monastery of St. Laurence in Buda. The Prior Provincial Laurence presides over this Chapter¹³ and becomes the first *Prioris Generalis*¹⁴. The Chapter also promulgates the first Constitutions of the Order¹⁵.

The Order spreads across Europe, with Monasteries and Provinces in Poland, Germany, Austria, Croatia, and even Portugal. Hungary remains the heartland of the Order and its Province is known as the Mother Province

⁴ Cf: L. KOSZTA, Un prêtre français de Hongrie: Bertalan, évêque de Pécs (1219–1251)”, in *Cahiers d’Etudes Hongroises*, 8 (1996), 71-96.

⁵ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 22.

⁶ Cf: *Vitae Fratrum*, 5-6.

⁷ Cf: E. KISBAN, *Historia Zakonu Paulinów – macierzystej Prowincji Węgierskiej*, Vol 1, Jasna Góra 2009, 26.

⁸ Eusebius is already called *Prior Provincialis*, Cf: G. GYÖNGYÖSI, *Vitae Fratrum Eremitarum Ordinis Sancti Pauli Primi Eremitae*, Edidit FRANCISCUS K. HERVAY, Budapest 1988, 45.

⁹ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 31.

¹⁰ Cf: ZAKON ŚWIĘTEGO PAWŁA PIERWSZEGO PUSTELNIKA, *Roczniki Zakonu Św. Pawła Pierwszego Pustelnika*, Vol 1, Częstochowa 2008, 111.

¹¹ Cf: ORDO SANCTI PAULI PRIMI EREMITAE, *Archivium Ordinis Sancti Pauli Primiae Eremitae Fontes*, Vol 1, Trier 1973, 18.

¹² Cf: KISBAN, *Historia Zakonu Paulinów*, 29.

¹³ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 51.

¹⁴ Cf: *Vitae Fratrum*, 56.

¹⁵ Cf: *Ibid*, 58.

of the Order¹⁶. The fact of the Order not spreading beyond central Europe mortally wounds the Order: first, in the fall of Hungary to the Turks in 1687, where a great number of monasteries are desolated and monks are killed by Muslim invaders;¹⁷ then in the Austro-Hungarian Empire with the dissolution of Religious Orders as part of Josephism¹⁸. The Order survives in Poland, but only here due to the machinations of the last king of Poland, Stanisław II August Poniatowski, who had Pope Pius VI exempt the Polish Province from the jurisdiction of the Prior General of the Order in 1784, appointing a Pro-general for the Polish Province¹⁹. Pope Pius VI by separating the Polish Province, essentially created a *Novus Congregatione Polonam Fratrum Ordinis S. Pauli Primi Etermitae*²⁰. This turns out to be a saving grace for the Order, even as the Polish Lithuanian Commonwealth is partitioned between the Russian, Prussian and Austrian empires, and the Order is dissolved everywhere, two monasteries remain, Jasna Góra in Częstochowa and Skałka in Krakow. Since only two monasteries remained, juridically it was difficult to speak of an *Ordo* or even a Province.

In 1901, Eusebius Rejman, Prior of Jasna Góra, receives the title of *Prior Generalis*,²¹ and is granted the privileges of pontificalia from the Holy See in 1908. Following Polish independence in 1918, in the following year, the Bishop of Podlaska restores the Pauline Church and Monastery to the Order, this allows the Holy See, seeing that the Order once again has three Houses, to allow the Order to hold a General Chapter and to elect a real Prior General²². The decree comes on the 15th of June 1920, confirming the union of the three houses and also appointing an Apostolic Visitor, Fr. Władysław Bohosiewicz CSsR. The Apostolic Visitor in turn nominates Fr. Piotr Markiewicz as Prior

¹⁶ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 57.

¹⁷ Cf: G. LORENC, *American Częstochowa*, Doylestown 1989, 2.

¹⁸ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 232, Płatek claims that he dissolved 65 monasteries of different provinces, with a total of 786 monks being affected.

¹⁹ Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 234.

²⁰ Cf: Copiae Bullarum et Indultorum de Indulgentiis ac privilegeis Ordini Nostro et Provinciae Polonae concessis” in PRZEŹDZIECKI PIUS, *Festa nec non Officia Propria Sanctorum patronorum ordinis Sancti Pauli Primi Eremitae. Secundum novum ejusdem ordinis calendarium novissimaque S.R.C. decreta eidem ordini concessa jussu admodum reverendi patris Pii Przezdziecki reimpressa*. Rzym: *Sumptibus Conventus Clari Montis, Częstochoviensis* 1938, 96-100.

²¹ Cf: J.S. PŁATEK, *Dzieje Paulinów XX wieku – życie i działalność*, Jasna Góra 2003, 688.

²² Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 302.

General²³. He in turn, begins the project of the revision of the Constitutions of the Order considering the 1917 code, which is promulgated in the Order before the Solemnity of St. Paul the First Hermit in 1931²⁴.

The Order, even amongst great difficulties such as the Second World War continues to grow, mainly in Poland, but also revives its presence in its historic homeland of Hungary. This revival unfortunately is cut short by the intervention of the Hungarian Communist government, dissolving the Pauline presence and all other Religious Orders in Hungary. Some of these monks flee to the United States and thus spread the Order to the New World, others go into hiding or live as secret "black" Paulines²⁵. The years of post-war communist oppression in Poland, present the Order with many difficulties and many opportunities. The Order is favoured by the Polish Church and the Primate of Poland, Stefan Cardinal Wyszyński, who himself as a young priest desired to enter its ranks²⁶. This is because the Marian Shrine of Jasna Góra and the main monastery of the Order is seen as the confessional of the nation and as the beating heart of Polish Catholicism in opposition to the atheistic communist oppression of the state. This, and the election of the Archbishop of Kraków, Karol Wojtyła, to the Papacy attracts many young Polish men to the fight against communism, the service of God in the Priesthood, and into the ranks of the Order.

With this increase in numbers, the Order is able to return to Germany, Croatia and Slovakia. The Order is renewed and filled with a certain apostolic dynamism that does not sit well with its monastic character. A certain tension appears in the Order between its apostolic activity and its monastic core. Some monks are divided into two camps: those favouring the apostolic mission of the Order and others who would like to remain, alone with God alone²⁷. A very complex episode in the modern history of the Order is the election of Gregory Kotnis as Prior General of the Order in 1975. Elected for his ability in languages

²³ Cf: PŁATEK, *Dzieje Paulinów XX wieku*, 466-467.

²⁴ Cf: Ibid, 469.

²⁵ Several Paulines, following the orders of the government, laid aside their white habits and adopted black soutanes, living as diocesan priests, but secretly remaining true to their profession as Monks of the Order of St. Paul the First Hermit. Cf: PŁATEK, *Wybrane zagadnienia z historii i duchowości Paulinów*, 338.

²⁶ „Nosilem się z zamiarem wstąpienia do zakonu paulinów i poświęcenia się pracy wśród pielgrzymów. Ojciec Korniłowicz, mój kierownik duchowy, oświadczył mi, że to nie jest moja droga. Ale nie przestałem myśleć, że życie moje musi jednak iść drogą maryjną, jakkolwiek by płynęło”. S. WYSZYŃSKI, *Zapiski więzienne*, Warszawa 1995.

²⁷ *Solus cum Deo solo*.

and his experiences outside of Poland,²⁸ Gregory is supposedly in favour of returning the Order to its more monastic roots. This causes tension and a complex outright rebellion by many monks. The Primate of Poland and the Holy See intervene and Gregory leaves the Order for the Diocese of Phoenix Arizona and is succeeded as Prior General by Józef Płatek²⁹. Augustine Łazur, a monk working in the United States, then finds himself in Australia and eventually transplants the Order to the land down under. Łazur desiring a more monastic life, sought to found monastic shrines some distance away from cities³⁰.

Given this development of the Order in general, and in the 20th century in particular, it became even more difficult to categorise the Pauline Order. Who were they? Apostolic preachers of a pastoral renewal centred upon Marian Shrines? Monks and Hermits, living in solitude and immersed in prayer alone and liturgy in common? Were they Monks or Diocesan Priests in white habits? Or perhaps, like their Founder, they were Canons Regular?

Juridical Status

Pope Clement XIV in 1770, at the request of the Prior General Esterhazy, with a Papal Brief classifies and defines the Order as of Monks. He claims that until now, no church authority has yet defined what category of regular clergy the Order belonged to, namely whether the Order was an Order of Canons or of Monks. The Order being a Medicant Order is totally ruled out by the Pontiff, stating that the Order never practiced begging for its upkeep. Since the Order was forbidden to beg and its members followed the Rule of St. Augustine, the Pontiff suggests that they could be counted amongst the Canons Regular of St. Augustine. Since the Order lived a Monastic life, and its first founders dedicated themselves to contemplation, solitude and the common life, and previous Pontiffs have referred to those in the Order called them Monks, the Order should in fact be classed as a Monastic Order. In his Brief Clement XIV refers to Pope Martin V, granting the Order the same privileges and indulgences that were granted to the Carthusians³¹.

²⁸ Cf: J.S. PŁATEK, *Polscy Generalowie Zakonu Paulinów*, Jasna Góra 2014, 249-260.

²⁹ Cf: A. LANG, *Sprawa obiektowa kryptonim „Pustelnik”*, Warszawa 2022, 33-59.

³⁰ Cf: P. PRZYGOZDKI, *Curriculum vitae of Fr. Augustine Joseph Lazur, a Pauline monk*, trans C. ZIELINSKI, <https://paulinefathers.org.au/history/australian/augustine-joseph-lazur/>, (accessed 05.09.2022).

³¹ Cf: M. STESKA, *Roczniki Zakonu Św. Pawła Pierwszego Pustelnika*, vol II, *Księga III*, Częstochowa 2008, 433-434.

Pope Clement, in another apostolic letter, also grants the Prior General Paul Esterhazy and his successors the privilege of pontificalia, wearing the dress of prelates, tonsuring his professed and ordaining them to the minor orders³². This is unsurprising, since the Major Superiors of Monastic Orders usually have the use of pontificals and ordain their own subjects to the minor orders. The Order is still listed among Monastic Institutes today.

The *Annuario Pontificio* offers an *elenco storico giuridico di Precedenza* of Male Religious Institutes, the first category is those known as *Ordini* or Orders. It is divided into the subcategories of 1. *Canonici Regolari*, 2. *Monaci*, 3. *Ordini Mendicanti*, 4. *Chierici Regolari*.

This reflects the order of precedence listed in the 1917 Code of Canon Law³³. The *Annuario* places the Pauline Order second last among the Monks and refers to the Order as *Monaci di San Paolo Prima Eremita*, whilst listing the Polish title of *Zakon Świętego Pawła Pierwszego Pustelnika* or *Ojcowie Paulini*. The date of founding is 1215 and the approval of the Order is 1308, whilst the last constitutions approved for the Order were on the 26th of August 1986. The end of the Order is a contemplative-active life and priestly ministry within its own churches. The Supreme Moderator is referred to as the *Priore Generale*.³⁴ The Constitutions of the Order define the Order as:

Art 1. § 3 Ordo noster decursu saeculorum tamquam Ordo clericalis exemptus, iuris pontificii formatus est talisque nunc, iuxta Iuris Canonici normas, remanet (can. 588 § 2, 591, 593).

³² Cf. „Copiae Bullarum et Indulorum de Indulgentiis ac privilegis Ordini Nostro et Provinciae Polonae concessis” in PRZEŹDZIECKI PIUS, *Festa nec non Officia Propria Sanctorum patronorum ordinis Sancti Pauli Primi Eremitae. Secundum novum ejusdem ordinis calendarium novissimaque S.R.C. decreta eidem ordini concessa jussu admodum reverendi patris Pii Przewdziecki reimpressa*. Rzym: *Sumptibus Conventus Clari Montis, Częstochoviensis* 1938, 92-96.

³³ CIC17 Can. §1. Religiosi praecedunt laicis; religiones clericales, laicalibus; canonici regulares, monachis; monachi, ceteris regularibus; regulares, Congregationibus religiosis; Congregationes iuris pontificii, Congregationibus iuris dioecesani; in eadem specie servetur praescriptum can. 106, n. 5. §2. At clerus saecularis praecedit tum laicis tum religiosis extra eorum ecclesias atque etiam in eorum ecclesiis, si agatur de religione laicali; Capitulum vero cathedrale vel collegiale eisdem praecedit ubique locorum. *Codex iuris canonici, Pii Pontificis Maximi Iussu digestus Benedicti Papae XV auctoritate Promulgatus*, in *AAS* 9 (1917/II), 1-521.

³⁴ Cf. SEGRETERIA DI STATO VATICANO, *Annuario Pontificio per L'anno 2021*, Città del Vaticano 2021, 1360.

The Order therefore is a Clerical Order, exempt and of Pontifical Rite. Even though it has lay brothers, who are not in formation for the Priesthood, it governed by Priests and the mission of the Order requires the power of orders for its fulfilment³⁵. It is important to note here that Pope Francis' rescript allowing brothers to be superiors in Clerical Institutes³⁶ is only a derogation from this law³⁷ and not an abolition. Being of Pontifical Rite, its internal governance is subject directed to the Holy See,³⁸ this is exercised through the Dicastery for Institutes of Consecrated Life and Apostolic Life³⁹. By being a Clerical Institute of Pontifical Rite, its Major Superiors and their vicars are ordinaries⁴⁰. These three elements are very important for the functioning of Provinces in the Order.

What is a Province?

Can. 621 - Plurium domorum coniunctio quae sub eodem Superiore partem immediatam eiusdem instituti constituat et ab auctoritate legitima canonice erecta sit, nomine venit provinciae.

The institution of Provinces in Religious Orders comes from Medicant Orders. St. Francis divided his Institute into Provinces in the 1217 Chapter⁴¹. The Canon gives the essence of a Province as a union of a *plurium*, that is, several Houses. Following the Roman legal principle of *tres faciunt collegium*,⁴² and Canon 115 §2 regarding aggregates of persons as juridical persons, a Province is composed of a minimum of three Houses. A Province is therefore a *partes* or a part of an Institute. The Canon also mentions that the union of Houses is under the same superior. The *Quaderni di diritto*

³⁵ Cf: CIC., Can., 588 §2.

³⁶ Cf: FRANCESCO, "Rescriptum ex Audentia Sanctissimi Circa la deroga al canone 588 §2 del Codice di diritto canonico", in *L'Osservatore Romano*, 18 maggio 2022.

³⁷ Cf: CIC., Can., 20.

³⁸ Cf: CIC., Can., 589.

³⁹ Cf: Seeing that Pope Francis' Apostolic Constitution, *Praedicate Evangelium*, has as yet not been published in the *Acta Apostolica Sedis*, this work refers to the website. FRANCIS, apostolic Constitution, *Praedicate Evangelium* on the Roman Curia and its service to the Church in the world, 19th March 2022, Art. 121-127, https://www.vatican.va/content/francesco/en/apost_constitutions/documents/20220319-costituzione-ap-praedicate-evangelium.html, (accessed 12.09.2022).

⁴⁰ Cf: CIC, Can 134 §1.

⁴¹ T. SCHAEFFER, *De Religiosis ad normam Codicis Iuris Canonici*, Romae 1939, 148.

⁴² Cf: IUSTINIANUS, *Digesta Iustiniani*, 50.16.85.pr.1.

ecclesiae commentary of the Code, states that a province is a “*pers(ona) giur(idica) pubblica, creato con decreto dell’ autorità competente secondo le costituzioni.*”⁴³ A Province presupposes a certain autonomy of the Houses in terms of personnel, finances and activity⁴⁴. Since a Province is a juridical person, its purpose transcends the purpose of its individual Houses, meaning it can attain things beyond those capable of being attained by the houses as individual Houses⁴⁵. A Province needs to be financially self-sufficient, being a juridical person, to attain its end⁴⁶. D’Ostilio believes an integral part of this is having its own novitiate and studentate⁴⁷. Provinces are normally territorial, but like other similar structures, i.e., Dioceses,⁴⁸ Parishes⁴⁹ etc., they can be based on a purely personal basis. The *Quaderni di diritto ecclesiae* commentary suggests that adscription to a Province comes from Religious Profession⁵⁰.

Provinces form an intermediary tier between that of a Religious House and that of the Institute, thus the Provincial Superior is between the Supreme Moderator and that of the Local Superior. Chiappetta notes that universal law does not prevent more than one of these offices being held by the same person, that is the Supreme Moderator being a Provincial as well as a Local Superior⁵¹. Provinces themselves can be divided into Vicariates, in which the *postesta* of its superior is that of ordinary vicarious power, rather than delegated authority from the Supreme Moderator. Also Houses may be exempt from belonging to a Province to which they would belong to based on territory or another category, and subject directly to the Supreme Moderator⁵².

Provinces are erected by the competent authority within the Institute, be it by the General Chapter or by the Supreme Moderator with the consent

⁴³ *Codice di diritto canonico commentato* : testo ufficiale latino, traduzione italiana, fonti, interpretazioni autentiche, legislazione complementare della Conferenza Episcopale Italiana, commento, testo originale dei canoni modificati, indice analitico / a cura della Redazione di QUADERNI DI DIRITTO ECCLESIALE, Milano 2017, 545 – From here on “QDE commentary”.

⁴⁴ QDE commentary, 546.

⁴⁵ Cf: CIC., Can., 114 §1.

⁴⁶ Cf: CIC., Can., 114 §3.

⁴⁷ F. D’OSTILIO, *Prontuario del Codice di Diritto Canonico*, Roma 2018, 224.

⁴⁸ Cf: CIC., Can., 372 §1.

⁴⁹ Cf: CIC., Can., 518.

⁵⁰ QDE commentary, 546.

⁵¹ L. CHIAPPETTA, *Il Codice di diritto canonico :commento giuridico-pastorale*, Roma 2011, 743.

⁵² CHIAPPETTA, *Il Codice di diritto canonico*, 743.

of his Council. Can. 582 explains that it belongs to the authority of the Institute to divide the Institute into parts⁵³. Provinces are made up of Houses of the Institute, which are defined *in genere* in universal law, and are to be defined more specifically in particular law.

Houses – The building blocks of Provinces

In general

Can. 608 - *Communitas religiosa habitare debet in domo legitime constituta sub auctoritate Superioris ad normam iuris designati; singulae domus habeant oratorium, in quo Eucharistia celebretur et asservetur ut vere sit centrum communitatis.*

Can. 609 - § 1. *Instituti religiosi domus eriguntur ab auctoritate competenti iuxta constitutiones, praevisio Episcopi dioecesanensis consensu in scripti dato.*

The 1983 Code in general does not make distinctions between various forms of Houses, unlike the 1917 Code, which divided Religious Houses into the two general categories, *domus formata* and *domus non formata*⁵⁴. A *formata* or formal House requires at least 6 members in professed Members, in cases of Clerical Institutes, at least 4 must be Priests. In a certain way, the current Code distinguishes between Houses legitimately constituted and those that are erected, according to canons 608 and 609 §1⁵⁵.

The essential elements of a House are a common life, at least three Members and a Superior.

For a House of an Institute to be erected requires the written consent of the Diocesan Bishop. The House is erected by the competent authority of the Institute foreseen by the Constitutions. A formal decree of erection makes the House a *domus formata*. An erected Religious House *ipso iure* enjoys juridical personality and can acquire, possess, administer, and alienate temporal goods⁵⁶. Its goods are therefore ecclesiastical goods, because it is a public juridical person⁵⁷.

⁵³ CIC., Can., 581.

⁵⁴ Cf: CIC 17., Can. 488 °5, Can. 497§1, Can 498.

⁵⁵ Cf: QDE, 537-538.

⁵⁶ Cf: CIC., Can- 634. §1.

⁵⁷ Cf: CIC., Can. 1257 §1.

Can. 610 - § 1. Domorum erectio fit prae oculis habita utilitate Ecclesiae et instituti atque in tuto positus iis quae ad vitam religiosam sodalium rite agendam requiruntur, iuxta proprios instituti fines et spiritum.

§ 2. Nulla domus erigatur nisi iudicari prudenter possit fore ut congrue sodalium necessitatibus provideatur.

Universal law requires that a Religious House only be founded if it is useful for the church and the Institute, and that it has all that it needs for the Religious Life, according to the end and spirit of the Institute. No House is to be founded unless it can be prudently supported and sustained. This implies more than just financial support, as a Religious House also requires an adequate number of Religious to function. Although the current Code, does not give a precise number requirement, it is held that since three physical persons are required for a juridical person,⁵⁸ therefore three Religious are required for a Religious House.

Can. 611 - Consensus Episcopi dioecesanii ad erigendam domum religiosam alicuius instituti secumfert ius:

1° vitam ducendi secundum indolem et fines proprios instituti;

2° opera instituto propria exercendi ad normam iuris, salvis condicionibus in consensu appositis;

3° pro institutis clericalibus habendi ecclesiam, salvo praescripto can. 1215, § 3, et sacra ministeria peragendi, servatis de iure servandis.

Can. 612 - Ut domus religiosa ad opera apostolica destinetur diversa ab illis pro quibus constituta est, requiritur consensus Episcopi dioecesanii; non vero, si agatur de conversione, quae, salvis foundationis legibus, ad internum regimen et disciplinam dumtaxat referatur.

The Law provides three rights granted to the House, with the Bishop's consent: 1) That the House may live the life proper to its Institute. 2) To fulfill its mission in the church. 3) That Clerical Institutes can have a church and may exercise sacred ministry with it. This church is distinct from an oratory or chapel, which all Institutes have a right to⁵⁹.

Can. 616 - § 1. Domus religiosa legitime erecta supprimi potest a supremo Moderatore ad normam constitutionum, consulto Episcopo dioecesano. De bonis

⁵⁸ Cf: CIC., Can., 115 §2.

⁵⁹ Cf: CIC., Can., 608.

domus suppressae provideat ius proprium instituti, salvis fundatorum vel offerentium voluntatibus et iuribus legitime quaesitis.

A House of an Institute may only be legitimately suppressed by the Supreme Moderator of the Institute according to the norms of the Institute; after having consulted the Diocesan Bishop. The consent of the Diocesan Bishop is not necessary *ad validitatem*. The goods of the suppressed House belong to the Order or the Province it belonged to. A House may also become extinct by the privation of Members, either by transfer, departure, or death. In this case, the House itself continues to exist without Members for a hundred years, until it becomes suppressed by the law itself.⁶⁰ During these hundred years, if not formally suppressed by the competent authority, the House may be reactivated by transferring Members to it. Universal law leaves much precision to particular law.

In the Order

Articulus 143

Plena monasterii communitas saltem sex religiosis constituitur Superiore et regimine computatis. Communitas regularis sic ordinata ad communes orationes Deo fundendas congregetur mutuumque perficiat nexum, qui ad unionem in Domino spectat.

Ordo noster alias quoque minores communitates habet, quae quamquam complete formatam domum non constituunt, tamen Superiorem a competendi auctoritate nominatum possident. Ista etiam, pro posse, vitam regularem agere debent.

The current Constitutions of the Order, like the 1917 Code, present two types of Houses. *domus formate*, and *domus non formate*. A *domus formate* has at least 6 Religious, the number including the Prior, Subprior and Administrator. It is not specified whether this number excludes those in simple vows, therefore they are included in the number necessary. A *Domus non formate*, is a small community and has only has a Superior, who is nominated by the competent authority. The General Directorium comments upon various types of Houses in the Order.

Norma 156

Omnes communitates nostrae propriam nobis vocationem exsequuntur. Attamen inter se peculiari indole, traditione et particularibus muneribus differunt, quae suscipiunt et colunt.

⁶⁰ Cf: CIC., Can., 120 §1.

In nostro igitur Ordine, praeter ordinaria monasteria, haec distinguuntur domus:

- domus novitiatus et formationis religiosae,
- studiorum,
- sanctuaria,
- paroeciae et loca pastoralia,
- recollectionum,
- editionum et laboris scientifici,
- recreationis.

Norm 156 which governs various types of Houses in the Order is not very precise. Every House, every community realizes the vocation and mission of the Order. Houses differ in their character, traditions, and their particular mission in the Order. The Directorium, by listing categories *praeter*, the ordinary monastery, establishes that the ordinary monastery is the usual House of the Order. Another term for a House with at least 6 members is a *conventus* or convent, a term which comes from Ancient Rome referring to an assembly of Roman Citizens dealing with provincial administration and justice. When eremitical life was combined with the coenobitical, in which Monks began to live together in the West, the term was applied to the corporation of the Monastery, its entire community⁶¹.

Therefore, other than an ordinary monastery, the Order has Houses of Novitiate and Formation, of studies, Shrines, Parishes and Pastoral centers, Houses of recollection, publishing and academic study and Houses of recreation. If these Houses are *domus formate* and number six or more Professed Monks, then they have a Prior, Subprior and Administrator. A small House, numbering less than six Professed Monks, only has a Superior and should number 3 members.

It would be logical to assume that if a House's residents fall below six, then it no longer has a Prior, Subprior and Administrator. If a House grows beyond 5 Members, then its Superior becomes a Prior, and a Subprior and Administrator are to be appointed by the Major Superior. It would appear that the term Monastery, would be more fittingly applied to a House with 6 Members and a Prior, Subprior and Administrator, whilst a simple House of the Order numbers less than 6 monks.

Since the Constitutions⁶² require three Houses for a Province, taken strictly, this does not require a Monastery of six Members, therefore three Houses numbering three Monks is the absolute minimum to form a Province. Since there

⁶¹ G.C. ALSTON, "Convent" in *The Catholic Encyclopedia*, vol 4, New York 1908.

⁶² Cf: Articulus 136.

were no Provinces in the Order when the 1987 Constitutions were promulgated by Prior General Josef Płatek, the constitutions offer this remark, “*Si provinciae in Ordine restaurentur*,⁶³” when they first begin to speak of Provinces.

Provinces in the Order of St. Paul the First Hermit

Although there have been Quasi-Provinces and areas where a Delegate of the Prior General had been appointed, the first true modern Province was the German one founded by the General Chapter in 2002⁶⁴. The American Province and the Australian Province were founded by the General Chapter in 2008⁶⁵. The Current Constitutions of the Order devote several articles to Provinces exclusively.

Caput IV: Ordinis Provinciae

Articulus 136

In Ordine nostro considerata traditione historica possunt provinciae erigi, in quantum Ordinis bonum spirituale eiusque incrementum, aliae quoque rationes requirunt. Nomine provinciae venit trium saltem coniunctio domorum quae Superiori maiori seu provinciali subest ac canonice erecta est (cfr can. 621; can. 608-610 necnon can. 115 § 2). In provinciae erectione possibilitas independentiae ordinativae, formativae et oeconomicae ratio habenda est. Omnes provinciae a statutis approbatis a Capitulo Generali vel a Patre Generali, cum voto deliberativo sui Consilii, regantur.

Article 136 acknowledges the historical tradition of Provinces in the Order. Provinces may be founded in the Order in so far as they serve the good of the Order and the development of the Order. The Constitutions define a Province, like universal law, as three Houses united under a Major Superior, that is, canonically erected. Provinces should be independent in terms of organisation, formation, and economy. A Province, like any juridi-

⁶³ Articulus, 111.

⁶⁴ Cf: IZYDOR MATUSZEWSKI, Dekret Generała Zakonu, O IZYDORA MATUSZEWSKIEGO, z dnia 24.04.2002 r. erygujący Prowincję Niemiecką zgodnie z decyzją podjętą przez Kapitułę Generalną w uchwale no. 6, in *Zakonu Świętego Pawła Pierwszego Pustelnika Biuletyn*, vol 33, 2002, 15.

⁶⁵ Cf: IZYDOR MATUSZEWSKI, Dekret Generała Zakonu, O IZYDORA MATUSZEWSKIEGO, ogłaszający erygowanie Amerykańskiej Prowincji Zakonu, in *Zakonu Świętego Pawła Pierwszego Pustelnika Biuletyn*, vol 39, 2008, 21.

¹ZYDOR MATUSZEWSKI, Dekret Generała Zakonu, O IZYDORA MATUSZEWSKIEGO, ogłaszający erygowanie Australijską Prowincji Zakonu, in *Zakonu Świętego Pawła Pierwszego Pustelnika Biuletyn*, vol 39, 2008, 21.

cal person, is ruled by its own statutes⁶⁶. A Province, like any juridic person, is an aggregate person, that is of at least three Houses. It exists for a mission that transcends the purpose of the individual Houses that constitute it⁶⁷. A Province is given juridic personality by the law itself⁶⁸.

Articulus 137

Provincias erigant Capitulum Generale aut P. Generalis cum voto deliberativo Definitorii (cfr can. 581), decreto quidem erectionis, in quo territorium geographicum, numerus domorum provinciae necnon pecularia eius munera determinantur. Primum vero Capitulum provinciale P. Generalis convocet. Provinciam moderetur Superior provincialis saltem decem annos professionis perpetuae habens, in capitulo provinciali electus ac P. Generali confirmatus.

A Province is founded by the General Chapter or the Prior General with the consent of his Council, that is, the Definitorium. The Decree of Erection defines the territory of the Province as well as the Houses that constitute the Province, as well as its particular mission. There is no reason a Province could not be personal, that is made up of a category of persons, as opposed to territorial. The first Provincial Chapter is convoked by the Prior General and it elects its first Provincial, its Definitorium and provides for a Provincial Administrator and Secretary.

Articulus 141

In casu quo supra nominatae condiciones ad erigendam provinciam integre non existunt, Capitulum Generale vel P. Generalis cum voto deliberativo sui Consilii, ob iustam causam, potest erigere quasi-Provinciam ad normam can. 620 atque electum a communitate Quasi-Provincialem cum eius Consilio approbare. In aliis casibus, ob iustam causam, Pater Generalis, cum voto deliberative.

If the conditions for a Province do not exist, that is, it is not independent financially, in terms of organisation and formation, then the General Chapter or the Prior General with the consent of his council may found a Quasi-Province⁶⁹. As of the 2020 General Chapter, the Order has

⁶⁶ This work will refer to the statutes of the Australian Province found in when discussing Provincial Statutes *in Genera*.

⁶⁷ Cf: CIC., Can., 144§1.

⁶⁸ Cf: CIC., Can., 166 §2.

⁶⁹ The First Quasi-Provinces in modern times were erected by the 1996 General Chapter and were the Hungarian, German and Australian. Cf: „Uchwały Kapituły Generalnej Zakonu Świętego Pawła Pierwszego Pustelnika odbytej na Jasnej Górze w Częstochowie w dniach od 6 do 22 marca 1996”, in ZAKON ŚWIĘTEGO PAWŁA PIERWSZEGO PUSTELNIKA, *Biuletyn*, Rok XXVIII, no. 2, (1996), 10-15.

favoured the term Vice-Province. Other than its self-sufficiency, a Vice-Province differs from a Province, in that its Major Superior and his Council, are nominated by the Prior General. If the conditions do not exist for a Vice-Province, then the Prior General may appoint his delegate for a particular territory, defining his competency and powers. As in the Order in general, a Province is ruled by its Provincial Chapter, and by the Prior Provincial and the Provincial Definitorium.

Provincial Chapter

It appears, in the early years of the Order, the Provincial Chapter, like the General Chapter, was held once a year. Their chief function was to receive the reports of the Priors of the Houses of the Province and for them to be verified and criticized by representatives from the Houses of the Priors. These Representatives were known as *Discretores*⁷⁰. Szafraniec suggest that this system of yearly Chapters, the reports of Priors and the criticism of the *Discretores*, was to allow a legal and open critique of the governance of Superiors by their subjects⁷¹. This critique of the governance of Superiors continues today, a bit less frequently and secondary to the election of the Prior Provincial and the officers of the Province.

Norm 3⁷²

11. The following falls within the competence of the Provincial Electoral Chapter: a. Acceptance of reports with regards to the activities of the Father Provincial and the provincial Definitorium as well as ratification of the financial report of the Province;

b. The Election of the Father Provincial and the Provincial Definitorium as well as the Provincial Administrator and Secretary according to the same precepts which bind during the General Chapter in the election of these same officers. (cf. norm 142);

c. Voting on suggestions of changes in the Statutes of the Province;

⁷⁰ Cf: ARCHIVUM ORDINIS SANCTI PAULI PRIMI EREMITAE, *Constitutiones Religionis S. Pauli Primi Eremitae a Sant.^{mo} D N Papa Urbano VII approbatae, & confirmatae Romae 1644*, II Fontes T. XXI: *De Electione Discretorum* Cap V, Coesfeld 2014.

⁷¹ S. SZAFRANIEC OSP, *Konwent Paulinów Jasnogórskich 1382-1864*, Archivum Ordinis Pauli Primi Eremitae Dissertationis 1, Rzym 1966, 5.

⁷² “The Statutes of the Australian Province of the Order of St. Paul the First Hermit,” in AUSTRALIAN PROVINCIAL CURIA OF THE ORDER OF ST. PAUL THE FIRST HERMIT, *The Rule, Constitutions and General Directory of the Order of St. Paul the First Hermit*, Penrose Park 2019.

d. Establishing the financial levy to be applied to monasteries and houses in favour of the Province Fund;

e. Consideration and regulation of matters in relation to the Province deferring to the competence of the General Chapter and the General Authority of the Order.

The Prior Provincial gives reports of his reign, of the Province in general and its financial state. The chapter voices its opinion and votes to ratify these reports. After this the Provincial and his Definitorium lose office. It is from the basis of these reports and the experience of the members of the Chapter, that the Chapter plans for the future. The Chapter then proceeds to elect a new Provincial and his Council.

Articulus 138

Provincialis eiusque consilium quattuor definitoribus constans, secretarius et administrator provinciae, iuxta normas Directorii generalis, in Capitulo provinciali ordinario ad triennium eligantur. Primus definator, professus perpetuus saltem quinque annorum, officio vicarii provincialis fungatur. Capitulum a Provinciali convocetur monito P. Generali, cui ius est per se vel suum delegatum huic Capitulo interesse. Attendatur oportet terminos Capitulorum provincialium celebrandorum terminis Capitulorum Generalium non concurrere.

Membra Capituli Provincialis erunt:

- a) Pater Generalis aut eius delegatus, Pater Provincialis (vel quasi-Provincialis) cum suo consilio.
- b) Delegati totius Provinciae, iuxta legem nostram religiosam electi, numero saltem aequali eorum, qui Capitulo ipso iure intersunt. Praeses Capituli Provincialis Pater Generalis (aut eius delegatus), usque ad eius terminationem, erit.

There are two types of Provincial Chapters an ordinary, which takes place every three years, and an extraordinary one, which take place when there is a particular need⁷³. The Ordinary Provincial Chapter elects a Provincial and his four Definitors, as well as provides for a Provincial Secretary and Administrator. A Chapter is convoked by the Prior Provincial after having advised the Prior General, who has the right to take part in it either personally or by means of his Delegate. The Constitutions also desire for the Provincial Chapter to not conflict with the General Chapter. The Prior Provincial convokes the Chapter in writing, with at least 2 months' notice⁷⁴. An extraordinary chapter is convoked with the consent of the Provincial Definitorium and the Prior General and his Definitorium. Likewise, one

⁷³ Cf: Statutes Norm 3. 8.

⁷⁴ Cf: Statutes Norm 3. 1.

must be called if demanded in writing by at least two-thirds of the Members of the Province⁷⁵.

The Provincial Chapter is composed of Members who take part in it *ex officio* and by election. There are 8 members *ex officio*, they are the Prior General or his Delegate, and the Prior Provincial and his Council. The rest of the Chapter is made up of Monks elected by the Monks of the Province. It is required that members by election should number at least the same as those *ex officio*, then the minimum number of elected Members is 8. If the Province numbers less than 30 Members, then all Solemnly Professed Members of the Province take part, except seminarians after Solemn Profession who are not yet priests, even if they number less than 8⁷⁶. It is to be remembered that *ex officio* Members have no active or passive voice in regards members who partake in the chapter by election.

Should the Province exceed 30 Members, then the Prior Provincial with his Definitorium establishes electoral colleges consisting of 3 monks if the Province numbers 30-50 Monks or consisting of 5; Monks if the Province numbers more than 50 Monks⁷⁷. Lay brothers should form their own colleges, but if they do not have sufficient numbers, the remainder are added on to the last college of Priests⁷⁸. Seminarians (including Deacons), after Solemn Profession form their own college/s, if possible, and elect a delegate to the college, who is not a seminarian in Solemn Profession⁷⁹. The Constitutions do not forbid a college to elect someone from outside itself, in fact this is exactly what a college of seminarians in Solemn Profession has to do. It is also worth noting that the Prior General may appoint a Member of the Province, even the outgoing Prior Provincial himself as his Delegate.

The ordinary Chapter's chief role is to elect a Provincial and his Council. This is done by a canonical election.⁸⁰ The law of the Order derogates from universal law here and allows for four ballots, as opposed to three. The first three require an absolute majority, whilst the fourth allows for a simple majority, between the two candidates who received the most votes in the third round. Furthermore, in case a tie between the two can-

⁷⁵ Cf: Statutes Norm 3. 8.

⁷⁶ Cf: Statutes Norm 3. 7.

⁷⁷ Cf: Statutes Norm 4. 4.

⁷⁸ Cf: Statutes Norm 4. 1.

⁷⁹ Cf: Statutes Norm 3. 3.

⁸⁰ Cf: CIC., Cans., 119, 164-179.

didates on the 4th round, the one senior by First Profession is elected⁸¹. In treating other matters, the Chapter expresses itself by voting, requiring an absolute majority in two ballots and if this is not reached, the General or his Delegate breaks the deadlock by his vote⁸². Moreover, the resolutions and decision of the Provincial Chapter only becoming binding when what have been approved by the Prior General and his Definitorium and have been promulgated by the Prior Provincial⁸³.

Prior Provincial

Articulus 139

Auctoritas Provincialis qui professionem perpetuam saltem decem annorum habere debet, triennio integro durat et terminis suae provinciae includitur. Iura quoque habet Superiorum maiorum; qualitibus praestare debet, quae a Iure ecclesiastico et Constitutionibus a Superiore maiore postulatur. In rebus spiritualibus et materialibus auctoritatem habet nempe saper omnes conventus, personas et officiales provinciae. Porro ad eius auctoritatem pertinet singulos sodales a monasterio ad monasterium transferre. Potestas autem transferendi sodales religiosos a provincia ad provinciam solius P. Generalis est. Ad provincialem pertinet ius capitulum provinciale ordinarium vel extraordinarium convocandi eique praesidendi. Provincialis ante munus assumendum professionem fidei emittat (can. 833, 8).

In the tradition of Mendicants, the Superior of all levels of the Order is referred to as a Prior. That is the Number One, be it in the House, in a Province or in the whole Order. In some ways this is an echo of the concept of *Primus inter pares* or first among equals. Certainly, this would not be absolutely true, after all a Prior is either given *Potestes Regendi* as a Major Superior and Ordinary, or *Potestas domestica* as a Local Superior⁸⁴. What is worth noting, is that, although it is a Monastic Order, the Order avoids the term Abbot or Abbas or its Superiors. This could be in the mind of the 12th century Monastic reform, such as the Camaldolese or the Carthusians avoiding the term Abbot for its connotations with worldly involvement, or it could have more to do with an idea that a Pauline Superior is not a Benedictine Abbot in terms of authority and power over his confreres.

⁸¹ Cf. Statutes Norm 3. 12.

⁸² Cf. CIC., Can., 199 2/.

⁸³ Cf. Statutes Norm 3, 16.

⁸⁴ Cf. L. BECKETT, *The Canonical understanding of Spiritual Leadership in Religious Life*, Rome 2011, 54.

What is most curious, is that the term Prior seemed only to be properly applied to the Provincial or the General. The 1644 Constitutions and even the 1309 Constitutions refer also to the Local Prior as a Vicarius⁸⁵. This may have had to do with Provinces being divided into Vicariates, in which the Prior of a large monastery, known properly as Vicarius was responsible for several smaller Monasteries, which were ruled by Priors⁸⁶.

Can. 622 legislates that whilst a Supreme Moderator exercises his *potestas* over the whole Institute, Provinces, Houses and Individuals, a Provincial exercise this same authority, but only over his Province. Power over seminarians, in regard to admitting to Profession or Orders is reserved to the Prior General, if the seminarians are assigned to the Seminary in Krakow⁸⁷. The very nature of the office of the Provincial is temporary,⁸⁸ as are all offices of governance in the Order.

Articulus 140

Ad officium eiusdem Provincialis pertinet singulis annis omnia monasteria provinciae in persona vel per suum delegatum visitare. Insuper saltem semel in anno de statu suae provinciae Patri Generali rationem reddat. Licet auctoritas eius ordinarie ad triennium duret, tamen, eo exacto, si Capitulo ipsi videbitur, ad aliud triennium, sed numquam immediate ad tertium Provincialis eligi potest.

The Constitutions of the Order oblige the Prior Provincial to visit all the monasteries of his Province every three years, either personally or by means of a Delegate. He uses this information, relations from Priors and Superiors, and that of his Council to give a report to the Prior General on the state of his Province yearly⁸⁹. The Provincial's term of office lasts three years, that is from ordinary Provincial Chapter to ordinary Provincial Chapter. Strictly speaking his office expires when he renounces it at the start of the next chapter and not with the expiration of time.⁹⁰ The Provincial may be elected to office by law in two consecutive terms, but never for three consecutive terms. In his office, he is assisted by a Council.

⁸⁵ S. SZAFRANIEC OSP, *Konwent Paulinów Jasnogórskich 1382-1864*, Archivum Ordinis Pauli Primi Eremitae Dissertationis 1, Rzym 1966, 5.

⁸⁶ Cf: KISBAN, *Historia Zakonu Paulinów*, vol 1, 39.

⁸⁷ A. CHRAPKOWSKI, „Sprawozdanie Wikariusza Generalnego Zakonu, o. Arnolda Chrapkowskiego ze spotkania prowincjałów w 2009 r.”, in *Biuletyn* Rok XL, (2009), no. 7.

⁸⁸ Cf: CIC., Can., 624 §2.

⁸⁹ Cf: Statutes, Norm 5, 6.

⁹⁰ Cf: Can 186.

Provincial Definitorium

The Council of the Prior General as well as that of the Prior Provincial is referred to collectively as a *Definitorium*, whilst its individuals are referred to as *Definitors*. This term is also used in other Orders such as Norbertines⁹¹, and is used by the Order of Preachers for members elected by a General or Provincial Chapter⁹² who then participate in small *Difinitorium* chapter⁹³ with the respective Prior and afterwards, whilst not using the title *Difinitor* form his council⁹⁴.

The chief role of the Definitors is to give their opinion and advise to the Prior General or Prior Provincial. The 1664 Constitutions require them to understand well the Constitutions, the dispositions of the Chapters, the privileges of the Order and anything that may serve them in advising their Superior⁹⁵. They are to do this honestly, without emotion and humbly⁹⁶. This same exhorta-

⁹¹ Cf: De Definitorio Ordinis, ORDO CANONICORUM REGULARIUM PREMONSTRATIENSIS, *Constitutiones Ordinis Canicorum Regularium Praemonstratensium*, Roma 2018, 111.

⁹² Art. I – DE ELECTIONE DIFFINITORUM CAPITULI PROVINCIALIS 513. — Diffinitores capituli provincialis sunt fratres qui ab omnibus vocalibus capituli provincialis eliguntur ut, una cum praeside, principaliora negotia capituli diffiniant. CURIA GENERATLIA FRATRUM ORDNIS PRAEDICATORUM, *Liber Constitutionum et Ordinationum Fratrum Ordinis Praedicatorum* iussu Fr. BRUNONIS CADORE magistri Ordinis editus mutationibusque factis in Capitulo Generali de Biên Hòa sub Fr. GERARDO FRANCISCO TIMONER III Magistro Ordinis a.D. 2019 celebrato auctus, Romae 2021.

⁹³ Art. III – DE CAPITULO GENERALI 406. — Tria distinguuntur in Ordine capitula generalia: capitulum electivum, capitulum diffinitorum, capitulum priorum provincialium. *Liber Constitutionum et Ordinationum Fratrum Ordinis Praedicatorum*.

⁹⁴ Art. IV – DE CONSILIO PROVINCIÆ. 366. — Ad consilium provinciæ pertinent, dummodo in provincia sint assignati aut sint filii provinciæ in conventibus assignati sub immediata iurisdictione magistri Ordinis non tamen ad consilium generalitium pertinentes: 1° ex-prior provincialis immediate ab officio cessans; 2° regens studiorum; 3° socius prioris provincialis; 4° diffinitores ultimi capituli provincialis, usque ad sequens capitulum; 5° consiliarii forte electi a capitulo provinciali (cf. n. 519 § II), usque ad sequens capitulum. *Liber Constitutionum et Ordinationum Fratrum Ordinis Praedicatorum*

⁹⁵ Ad officium Diffinitorum spectat Regulam, Constitutiones, Ordinationes Capitulum, Privilegia ordinis, et quicquid vocationi nostrae inferuire possit, frequenter legere, et bene intellegere, et cum opus fuerit in prompt habeant, et negotia ordinis, ac perfonas peculiari oration in suis sacrificijs Deo commendent. Pars III, Caput VII De Officio Definitorium, *Constitutiones 1644*.

⁹⁶ In sententiis vero ferendis studeant sinceram, et a perturbatione liberam intentionem habere, ut breviter libere, non tamen praecipitanter, sed re benefecum coram Deo considerata cum omni modestia sententiam dicant, et qui posteriores sunt in sententiando Priorum dicta inutiliter non repetant, nisi ad rem confirmandum, aliorum rationes effent dissoluendae, quod modeste facere, et rationes suae sententiae breviter exponere debent, si autem aliquid ex tempore discutiendum proponetur, et id sibi manturium confideran dum

tion is repeated in the 1930 Constitutions⁹⁷. The current Constitutions likewise ascribe the same role to the Definitors, be it Provincial or General. The Prior Provincial requires their consent for certain acts⁹⁸ and to hear their opinion for others⁹⁹. They are elected by the Provincial Chapter. The first of the Definitors is the Vicar Provincial.

Articulus 137

Auxilio eidem consilium esto quattuor Definitoribus constans, quorum primus vicarius sit, necnon administrator provinciae bonorum, ac secretarius.

Provincial Vicar

The Provincial Vicar is the First Definitor in the Provincial Definitorium. He must be Solemnly Professed for at least 5 years¹⁰⁰. Because he is the Vicar of one who governs a part of the Order, by universal law, he too is a Major Superior¹⁰¹. Because the Order is a clerical one of Pontifical Right, the Vicar Provincial is also an Ordinary for the members of the Province¹⁰². For this reason he must be a Priest¹⁰³. The Vicar Provincial is therefore one of the Prior Provincial's collaborators, who is elected by the Provincial Chapter. The law of the Order gives the Provincial the freedom to nominate his secretary, but he requires the consent of the Chapter¹⁰⁴.

Secretary – Socius

Cum intersuerit sessionibus Definitorum locum quidem habeat post Definidores non adsuffragiaferenda, sed ad decreta super sententiam diffinitivam formanda, & publicanda, quae in acta ordinis reterre, & propria manu subscribere debbit. Poterit tamen sententiam suam dare, quae vigorem consilii non praerogativam definitionis

iudicauerint, agant cum Priore Generali, vel Provinciali, ut in ssequentem diem ultimam sententiam differat. Pars III, Caput VII De Officio Definitorum, *Constitutiones 1644*.

⁹⁷ 305. Quattuor Definidores generales, zelo ac prudentia praediti, quorum primus erit Vicarius generalis, eligendi sunt in Capitulo generali, item quattuor Definidores Provinciales in Capitulo Provinciali, qui Priorem Generalem vel Provincialem in gubernatione totius Ordinis vel Provinciae, consilio, diligentia et labore adiuvent. *Constitutiones 1930*.

⁹⁸ Cf: Statutes, Norm 6 5.1.

⁹⁹ Cf: Statutes, Norm 6 5.2.

¹⁰⁰ Cf: Art 138.

¹⁰¹ Cf: CIC., Can., 620.

¹⁰² Cf: CIC., Can., 134 §1

¹⁰³ Cf: Norm 3, 5

¹⁰⁴ Cf: Statutes, norm 6, 4.

habeat. Intra tempus Capituli , vcl visitationis locum ante Vicarium seu Priorem loci occupabit, eadem applicari debent Secretario Prioris Provincialis.¹⁰⁵

The Provincial Secretary was historically known as the *Socius* of the Provincial.¹⁰⁶ His role is much like the General Secretary. The 1664 Constitutions of the Order *suggest that let the protocols of the order, visitations of the brothers, the decrees of the superior general and the definitory, and all letters be written in a smooth style, observing the monastic manner of writing*¹⁰⁷. The Provincial Secretary functions essentially as the Notary of the Province and of the Prior Provincial. His signature establishes the authenticity of the letters, decrees and acts of the Province and the Prior Provincial¹⁰⁸. He draws up acts, decrees and other documents, he records juridic events as having taken place with place, day, month and year and he furnishes acts and decrees to those who legitimately request them from him. He can also declare copies to be in conformity with the original.¹⁰⁹

Norm 6

4. The Provincial Secretary, who must be a solemnly professed religious, is appointed by the Father Provincial with the approval of the Provincial Definitorium. His areas of responsibilities are:
 - a. To assist the Father Provincial in taking care of current matters;
 - b. To organise and administer the Provincial Curia;
 - c. To care for and maintain the Provincial Archives;
 - d. To prepare minutes of the Provincial Council meetings.
 The Secretary is bound to strict confidentiality in decisions and resolutions pertaining to the Province and to the deliberations of the Provincial Council. (cf. art 135).

Because of the delicacy of his work and his close association with the governance of the Order, he must be at least Solemnly Professed. He may be a Religious Brother. He is the personal assistant of the Prior Provincial in the day to day running of the Province. He runs the Provincial Curia and has care over its archives. By taking the minutes at meetings of the Definitorium, he is given a very privileged place in the running of the Province, although he does

¹⁰⁵ De Officio Socii seu Collegae Prioris Generalis, Pars III, Caput VII, *Constitutiones 1644*.

¹⁰⁶ E. KISBAN, *Historia Zakonu Paulinów*, vol 2, 317.

¹⁰⁷ sit omnibus acta ordinis, visitationis Fratrum, decreta Prioris Generalis, & Definitorii, ac litteras quasuis scribat stylo politico ,seruato modo scribendi Regulari. De Officio Socii seu Collegae Prioris Generalis, Pars III, Caput VII, *Constitutiones 1644*.

¹⁰⁸ Cf. CIC., Can., 481 §1.

¹⁰⁹ Cf. CIC., Can., 484.

not have voting rights in the Definitorium, he may be called upon to give his opinion. Because of the privileged information he may have, he is bound to secrecy. Other than these Provincial Officials, the Province is made up of monks.

Belonging to a Province

Religious belong to the house they are assigned. In general, monks in a House belong to the Province of the House, after all a Province is the union of Houses, not a gathering of monks. There are times that monks of a Province are assigned outside their Province, for example, novices in a novitiate outside their Province or seminarians studying outside their Province or Priest monks undertaking work in houses outside of their Province in the Order. In 2002 when the modern German Province was erected, it provided the following regarding membership of the Province.

§4

Membership

1. The Province has ordinary and extraordinary members.
2. An ordinary member of a Province is any religious who has made a valid perpetual religious profession and has been delegated to that Province by decree of the Major Superior.
Extraordinary members are novices and temporary professed. The number of extraordinary members may not exceed 1/3 of the total number of members.
3. Ordinary membership expires:
 - a. By being called away from the Province;
 - b. By leaving the Order;
 - c. By being expelled from the Order (cf. Const. 182-194);
 - d. In the event of death.
4. Extraordinary membership expires:
 - a. By being called away from the Province;
 - b. By petitioning the Major Superior;
 - c. By the decree of expulsion of the Major Superior;
 - d. In the event of death¹¹⁰.

110

§4 Członkostwo

1. Prowincja ma członków zwyczajnych i nadzwyczajnych.
2. Zwyczajnym członkiem Prowincji jest każdy zakonnik, który złożył ważną wieczystą profesję zakonną i został dekretem Wyższego Przełożonego delegowany do tejże Prowincji. Członkami nadzwyczajnymi są nowicjusze i profesji czasowi. Liczba nadzwyczajnych członków nie może przekraczać 1/3 ogólnej ilości członków.
3. Członkostwo zwyczajne wygasa:

Although these provisions appear well thought out, they present several problems. The statutes refer to a Major Superior, presumably the Prior General, but upon erection, the Province has four Major Superiors, the Prior General, the Vicar General of the Order, the Prior Provincial and the Vicar Provincial¹¹¹. How do novices and temporally professed become members of the Province? Do they become members of the Province by petitioning the Provincial to be admitted to Novitiate or to make Profession? It seems strange to impose a 1/3 restriction of extraordinary members in the Province.

More recent statutes do not have a dedicated paragraph on how one acquires membership in a Province, therefore it doesn't seem that the distinction between ordinary and extraordinary members of Province continues to exist. At the moment, from praxis, it seems that either one acquires membership in a Province by being accepted into the Order by its Prior Provincial,¹¹² or that are transferred by degree under the competency of a Prior Provincial or to a Province, by the Prior General¹¹³. Therefore it seems one loses membership in a Province by being removed from it by the Prior General, either by rescript on the part of the monk or *Motu Proprio* on the part of the Prior General. It would be advantageous, if monks are assigned by the Prior General or their Prior Provincial outside their provinces, for the Order to establish proper legislation regarding competency of Superiors and the rights and responsibilities of monks towards their Province and towards their house of assignation outside the Province.

-
- a. Przez odwołanie z Prowincji;
 - b. Przez wystąpienie z Zakonu;
 - c. Przez wydalenie z Zakonu (por. *Konstytucje*, art. 182-194);
 - d. W wypadku śmierci.
 - 4. Członkostwo nadzwyczajne wygasa:
 - a. Przez odwołanie z Prowincji;
 - b. Przez złożenie podania o wystąpienie na ręce Wyższego Przełożonego;
 - c. Przez dekret Wyższego Przełożonego o wydaleniu;
 - d. W wypadku śmierci.

„Statuty Prowincji Niemieckiej Zakonu Paulinów,” in *Biuletyn Zakonu Paulinów*, Rok XXXIII, 2002, 16-25.

¹¹¹ Cf: CIC., Can., 620.

¹¹² Cf: Statutes Norm 5, 8a.

¹¹³ Cf: *Biuletyn*, Rok XLV, 2014, 53: *Śliwa Wojciech – zwolniony z funkcji socjusza magistra nowicjatu w Leśniowie i przeniesiony do Prowincji Australijskiej z dniem 07.09.2014 r.*

Conclusion

The Order of St. Paul the First Hermit was born out of the union of two Hungarian monasteries in 1250. This union established a Province with Blessed Eusebius as its first Prior Provincial. His third successor Blessed Laurence was the first to adopt the title Prior General.

A Province is the union of three Houses under a common superior. A Province is a part of an Institute of Consecrated Life or Apostolic Life. It presupposes a certain autonomy of the Houses in the union and, being *ipso iure* a juridical person, serves a purpose that transcends the ends of its parts. It needs to be self-sufficient financially, in terms of formation, and in terms of personnel. Provinces in general are territorial. Its superior is a Major Superior and in clerical Institutes of Pontifical Rite, he and his vicar are ordinaries for their subjects.

In the Order of St. Paul the First Hermit, a Province is erected by the Prior General with the consent of his Definitorium or by a General Chapter. It is governed by a Prior Provincial, who has 4 monks as his council, the first of which fills the office of Vicar of the Province. He is also assisted by a Secretary and an Administrator in regard to the administration of the temporal goods of the Province. These offices are elected or nominated at the Provincial Chapter, which happens every three years and is presided over by the Prior General or his appointed delegate.

Although Provinces have for quite some time been abolished in the Order and there is very little historic continuity in the modern provinces as compared with the historical ones, the law governing Provinces and their operation is very much in legal continuity with the tradition of the Order. The second work in this series will examine the historic provinces of the Order, the modern Provinces and will discuss their future in the Order.

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PROWINCJE W ZAKONIE ŚWIĘTEGO PAWŁA PIERWSZEGO PUSTELNIKA. PRAWO UNIWERSALNE I PARTYKULARNE

Streszczenie

Prezentowany tekst jest pierwszą częścią całości pracy noszącej tytuł: *Prowincje w Zakonie Świętego Pawła Pierwszego Pustelnika*. Stanowi on próbę ukazania statusu prowincji w świetle kościelnego prawa uniwersalnego i partykularnego. Zagadnienie to wydaje się być istotne, gdyż rzeczywistość prowincji została przywrócona w Zakonie dopiero niedawno, stąd wielu mnichów ma trud-

ności ze zrozumieniem, czym jest instytucja prawna prowincji i jak ona funkcjonuje w Zakonie. Niektórzy ubolewają, że prowincje uważają się za autokefaliczne, inni ignorują swojego prowincjała i kontaktują się z przeorem generalnym przy każdej drobnej sprzeczce. Jeszcze inni uważają, że Zakon jest zbyt mały, aby dzielić się na prowincje. Wielu nie pamięta, że tytuł bł. Euzebiusza brzmiał *Primis Provinicalis* a nie *Primis Generalis*.

Niniejszy artykuł jest wglądem w rzeczywistość prawną prowincji zakonnej, a nie zapisem historii Zakonu, dlatego widnieje w nim tylko tyle informacji historycznych, ile jest konieczne do zrozumienia prowincji jako osoby prawnej. Jednakże refleksja nad historią prowincji dawnych i współczesnych oraz o ich perspektywach na przyszłość zostanie podjęta w drugiej części, której publikacja planowana jest ramach następnego, 33 tomu „Dissertationes Paulinorum”. Można przyjąć, że wartość niniejszych rozważań nie polega na ich kompletności, ale raczej na tym, że przedstawiają one unifikację wielu rozproszonych źródeł i prezentują tę kanoniczno-historyczną syntezę w języku angielskim.

Prowincja jest związkiem co najmniej trzech domów pod wspólnym przełożonym i stanowi część Instytutu Życia Konsekrowanego lub Życia Apostolskiego. Zakłada ona pewną autonomię domów w tym związku i będąc *ipso iure* osobą prawną, służy celowi, który wykracza poza cele jej części. Musi być samowystarczalna pod względem finansowym, formacyjnym i personalnym. Prowincje w ogólności są terytorialne. Jej przełożony ma status przełożonego wyższego, a w kleryckich Instytutach Papieskich on i jego wikariusz są ordynariuszami dla swoich podwładnych.

Zakon Świętego Pawła Pierwszego Pustelnika powstał w wyniku połączenia dwóch klasztorów węgierskich w 1250 roku. Euzebiusz był pierwszym przeorem prowincjalnym. Jego trzeci następca, błogosławiony Wawrzyniec, był pierwszym, który przyjął tytuł przeora generalnego.

Aktualnie w Zakonie Paulinów prowincja jest zakładana przez przeora generalnego za zgodą jego definitorium lub przez kapitułę generalną. Zarządza nią przeor prowincjalny, który ma radę składającą się z czterech mnichów, z których pierwszy pełni urząd wikariusza prowincji. W zarządzaniu dobrami doczesnymi prowincji pomaga mu także sekretarz i administrator. Urzędy te są obsadzone (wybierane lub nominowane) przez kapitułę prowincjalną, która odbywa się co trzy lata i której przewodniczy przeor generalny lub wyznaczony przez niego delegat.

Chociaż współczesne prowincje mają bardzo małą ciągłość historyczną w porównaniu z prowincjami dawnymi, to jednak prawo regulujące ich status i funkcjonowanie w dużej mierze pozostaje w ciągłości prawnej z tradycją Zakonu.