

**COUNSEL AND CONSENT
AS CHRISTIAN VIRTUES:
PROPOSALS FOR
STRUCTURAL CHANGE
IN THE CATHOLIC CHURCH**

Presented by

VOICE OF THE FAITHFUL

IN THE DIOCESE OF BRIDGEPORT

March 2005

Preamble

In response to the crisis of priestly sexual abuse and the attendant failure of episcopal leadership, Voice of the Faithful came into being in the spring of 2002 at St. John the Evangelist Church in Wellesley, Massachusetts, and declared its mission to be “a prayerful voice, attentive to the Spirit, through which the faithful can actively participate in the governance and guidance of the Catholic Church.” VOTF adopted three goals: 1: to support survivors of sexual abuse; 2: to support priests of integrity; and 3: to shape structural change in the Church. Within a few months affiliates of VOTF sprang up throughout the United States and abroad.

Few Catholics would quarrel with VOTF’s first two goals, but many have asked, “what do you mean, structural change?” In response, VOTF proposes specific structural changes. Our purpose is to initiate a conversation among all concerned parties, the bishop, the clergy, and the people in the pews. As these proposals make clear we do not have a hidden agenda. None of our proposals is written in stone; rather they should be seen for what they are, ideas to be discussed and debated. Only through dialogue of this kind will it be possible to effect essential changes.

The Church exists in historical time and place and has borrowed ideas of governance and administration from secular society. The current absolute monarchy that is the papacy is founded on the Roman imperial tradition. Rule by a self-perpetuating oligarchy of male celibate clerics reflects the attitude of ancient philosophers who distrusted the populace and believed that only the best people (the aristocracy) should rule or who argued that monarchy is the best form of government. In our age in the western world democracy is held up as the ideal, based as it is on the consent of the governed expressed through their elected representatives.

In order to enable the faithful to “actively participate in the governance and guidance of the Catholic Church,” we believe that the Church must recover its ancient tradition of seeking the counsel and consent of the faithful. Writing to his priests and deacons, around 250 A.D., nearly a decade before he was martyred, St. Cyprian, bishop of Carthage, one of the major figures in the early theological development of the Church, said: “It has been a resolve of mine, right from the beginning of my episcopate, to do nothing on my own private judgment without your counsel and the consent of the people.” Counsel and consent are thus Christian virtues as well as two of the foundational principles of modern democratic government.

The counsel and consent of the people should be given whenever any substantive change in governance is undertaken. As the number of the faithful runs into many thousands, mechanisms to obtain counsel and consent are needed. We propose that elected representatives of the people from the parishes, as well as representatives of the priests, and of the religious can give counsel and consent in the name of the entire body. This characteristic mode of democratic action has its basis in a principle of Roman law incorporated into the canonical tradition of the Church: “what touches all, should be approved by all” – *“quod omnes tangit, ab omnibus debet approbari.”* Representative

institutions as we know them in the secular world today derive from theories developed by medieval canon lawyers and the practice of religious communities and other associations within the Church. By reaffirming the necessity of governing by the counsel and consent of the whole body of the faithful given by their elected representatives we are returning to an earlier Church tradition. Some of what we propose may necessitate changes in canon law, but canon law, like everything else, has evolved and changed over the centuries and can and will do so in the future.

With these thoughts in mind we offer for discussion and debate five proposals:

- The Election of Bishops by the Faithful of the Diocese
- The Role of the Faithful in the Selection of their Pastors
- Diocesan Pastoral and Finance Councils
- Pastoral and Finance Councils and Safety Committees in Every Parish
- The Right of the Faithful to own Church Property

I. THE ELECTION OF BISHOPS BY THE FAITHFUL OF THE DIOCESE

Given the betrayal of trust by bishops who concealed and covered up priestly sexual abuse, the faithful of the diocese (priests, deacons, religious, laywomen and men), are justified in demanding the right established by ancient tradition to participate in the process of choosing their bishops. As the person primarily entrusted with the spiritual care of the faithful, the prospective bishop should be known to them and have their confidence before consecration.

From the earliest times and for much of the history of the Church the clergy and people of the diocese chose their bishops, although the details of the process often are not clearly known. Only in the last two hundred years has appointment by the pope become common. Before offering our proposals a historical overview will help to put the matter in context.

A. Historical Overview

The choice of Matthias to replace Judas described in the Acts of the Apostles (1:15-26) is an early example of an election:

So they proposed two, Joseph called Barsabbas, who was also known as Justus, and Matthias. Then they prayed: ‘You, Lord, who know the hearts of all, show which one of these two you have chosen to take the place in this apostolic ministry from which Judas turned away to go to his own place.’ Then they gave lots to them, and the lot fell upon Matthias, and he was counted with the eleven apostles.

We do not know how the two candidates were first proposed nor how “lots” were drawn, but an election did take place.

In like manner when the need for assistants became apparent the Twelve summoned the community of disciples and said, "Select from among you seven reputable men, filled with the Spirit and wisdom, whom we shall appoint to this task." So they chose seven men, traditionally regarded as the first deacons, and the Apostles "prayed and laid hands on them." Again we do not know the details of the process, but it is an example of an election (Acts 6:1-6).

A letter "From the colony of the Church of God in Rome to the colony of the Church of God in Corinth" (usually dated around 95 A.D. and often attributed to St. Clement) emphasized that Jesus chose the Apostles and the Apostles "appointed their first converts - after testing them by the Spirit - to be bishops and deacons for the believers of the future" (ch. 42). This is the notion of Apostolic Succession, a hallmark of Catholic belief concerning the office of bishop. The Roman letter (ch. 44) stated that these men were "commissioned by the Apostles (or by other reputable persons at a later date) with the full consent of the Church." How the entire Christian community at Corinth gave consent was not stated, but consent was essential.

Several other early texts emphasize the principle of election. *The Didache or The Teaching of the Twelve Apostles*, a second century text, states: "You must, then, elect for yourselves bishops and deacons who are a credit to the Lord, men who are gentle, generous, faithful, and well tried." Writing about 215 A.D. St. Hippolytus of Rome in his *Apostolic Tradition* (I.2.1) commented: "He who is ordained as a bishop, being chosen by all the people, must be irreproachable." St. Cyprian, bishop of Carthage (d. 258) stressed that the entire community should be present when a new bishop was chosen. Knowing the candidate, the community could testify to his character and habits. The one elected should be distinguished for learning, holiness, and virtue. The bishops of the province should confirm that the election was validly conducted and give their consent to it. The one consecrated should be chosen by the whole people (Epistle 67). The election of St. Ambrose as bishop of Milan in 373 suggests the informality that could attend the proceedings. A catechumen, Ambrose was the civil governor of the province of Milan when a dispute arose over the election of a bishop. As crowds milled about, a child's voice was heard crying out "Ambrose for bishop." The crowd took up the cry and demanded that the clergy accept him. He was elected, baptized, ordained a priest and a bishop in the course of a week.

Some years later Pope Celestine I (422-432) stated emphatically: "the one who is to be head over all should be elected by all." This is another way of stating the Roman law principle: "what touches all should be approved by all (*quod omnes tangit ab omnibus debet approbari*)." Celestine added "no one who is unwanted should be made a bishop; the desire and consent of the clergy and the people is required." Recognizing that a bishop imposed from without might incur the hatred of the people, Pope Leo I the Great (440-461), insisted that the bishop must be acceptable to the clergy and people: "It is essential to exclude all those unwanted and unasked for, if the people are not to be crossed and end by despising or hating their bishop. If they cannot have the candidate they desire, the people may all turn away from religion unduly."

Subsequent decrees of church councils reiterated the principle that the bishop should be freely elected with the consent of the clergy and people of the diocese but the texts do not specify how that was done. In time the clergy, meeting in a synod, agreed upon a candidate whom they presented to the rest of the community who gave their consent by acclamation. In the twelfth century chapters of cathedral canons assumed the right to elect the bishop. The consent of the community was still considered essential, but it was quickly reduced to a formality. Medieval kings and emperors often controlled the election by compelling the electors to choose the royal or imperial nominee. This led to a major struggle in the eleventh and twelfth centuries as the Church endeavored to reassert the right of free election without secular interference.

From time to time losing candidates appealed to Rome, thus allowing the pope to intervene. In the nineteenth century as a result of the separation of Church and State, the papacy signed concordats with different European states, providing for episcopal elections without governmental interference, though the consent of the head of state might be required. At the same time the papacy began to override more frequently the right of local communities to elect their own bishops.

When the United States became independent it was decided that an American should be named as bishop. With papal consent, the General Chapter of the American clergy, meeting at Whitmarsh, Maryland elected John Carroll as bishop of Baltimore in 1789. He was confirmed by the pope and consecrated in England. Two of his coadjutor bishops were also later elected by the General Chapter. When four additional dioceses were later established, however, the pope, without consulting the American bishops, appointed the new prelates.

B. The Appointment of Bishops in the Code of Canon Law

The current system embodied in *The Code of Canon Law* stipulates that the pope freely appoints bishops or confirms those lawfully elected. The bishops in each ecclesiastical province or episcopal conference should draw up “by common accord and in secret” a list of priests suitable to be bishops. The list (called a *ternus*) is sent to Rome. Each bishop may also make known persons he considers suitable. The papal legate must seek suggestions from the archbishop and the other bishops of each province as well as from the president of the episcopal conference. The legate should also hear from “some members of the college of consultors [priest advisors of the bishop] and of the cathedral chapter. He may also seek suggestions “in secret” from other clerics and from lay persons “of outstanding wisdom.” He then sends these suggestions to Rome. Reflecting earlier battles, the civil authorities were excluded from any role in the election or appointment of the bishop (Canon 377.1-5).

The person appointed should be outstanding in faith, morals, piety, zeal for souls, wisdom, prudence, and human virtues; be held in good esteem; be at least 35 years old, a priest for at least 5 years; hold a doctorate or at least a licentiate in Scripture, theology or canon law from an institute of higher studies approved by the Apostolic See, or at least be well versed in those disciplines. The Roman Congregation of Bishops weighs this

information and makes the final recommendation to the pope. The person chosen must be consecrated within three months and before taking possession of his office he must take an oath of fidelity to the Apostolic See (Canons 378-380).

From the foregoing it is apparent that ordinary parochial clergy and laypeople have no role in the appointment of a bishop. Some consultation with diocesan consultors and laymen of outstanding wisdom may take place, but it is very clear that archbishops and cardinals have a major voice in the appointment of bishops. Bishops are hardly ever chosen to rule over the diocese where they served as priests and are thus strangers to both the priests and people committed to their care. Smaller dioceses are stepping stones to more important prizes.

C. A Proposal for a Return to Local Episcopal Elections

A return to the ancient custom of local episcopal elections based on full participation by and consent of the clergy and people of the diocese is in order. A procedure that could be implemented is described below.

1. Preparatory Steps

- **Announcement of the Vacancy.** The archbishop, as head of the Ecclesiastical Province, should announce the vacancy in a letter to all pastors and parish councils to be read at all the Sunday masses.
- **Invitation to all the Faithful to Submit Names of Qualified Candidates.** The announcement should include an invitation to all the faithful to submit names of qualified candidates to the chancellor of the diocese.
- **Candidates from the Diocesan Clergy.** Candidates should be members of the diocesan clergy who are known both to their fellow priests and also to the people of the diocese. Church tradition has always emphasized that the faithful of the diocese can testify to the character of a prospective bishop if he has served among them and is not a stranger from another diocese.
- **Submission of Personnel Files to Priests' Council and Diocesan Pastoral Council.** The complete personnel files of the candidates should be submitted to the Diocesan Priests' Council and to the Diocesan Pastoral Council.
- **Interview of Prospective Candidates.** Candidates should be interviewed by the Priests' Council and by the Diocesan Pastoral Council, meeting jointly and separately.
- **Assessments of the Strengths and Weaknesses.** The Priests' Council and the Diocesan Pastoral Council should prepare a written assessment of the strengths and weaknesses of the candidates and submit it to the chancellor.

2. The Election of the Bishop

- **Convocation of a Diocesan Synod.** A Diocesan Synod to elect the bishop should be convoked by the archbishop who will also serve as President of the Synod. The Synod should meet in the cathedral on a Saturday and/or Sunday at a time convenient to all the participants.
- **Participants.** In addition to the archbishop and the other bishops of the province, the Synod should consist of elected representatives of the pastors, the associate pastors, the deacons, the religious communities working in the diocese, and the people in all the parishes. These representatives should be elected in the month prior to the Synod.
- **Officers of the Synod:** Assisting the archbishop in guiding the activities of the Synod should be the chancellor, and representatives of the priests, the religious communities, and the people, elected at the opening session of the Synod by their separate constituents in attendance.
- **Presentation of the Candidates.** The archbishop should present the names of the candidates to the Synod. The candidates, if they wish, should be permitted to address the Synod. The written assessments of the candidates by the Priests' Council and the Diocesan Pastoral Council should be distributed to all the participants. Sufficient time should be allowed for a plenary discussion of the merits of each candidate.
- **Voting.** Voting should be by secret, written ballot. The officers of the Synod should jointly count the ballots and inform the archbishop of the result. A two-thirds vote by the representatives of the priests, of the deacons, of the religious communities, and of the people should be required for a valid election.
- **Acclamation of the Bishop-Elect.** The archbishop should announce the results of the election, ask for the consent of the one elected, and present him for acclamation by the Synod. Confirmation of the election by the archbishop and provincial bishops will testify to the catholicity of the Church. The Synod should then dissolve and arrangements should be made for the consecration of the bishop-elect.
- **Term Limits.** The newly elected and consecrated bishop should serve for a limited term of years with a mandatory retirement age of seventy. An energetic bishop in good health is best able to attend to the ever-changing needs of the people he serves.

II. THE ROLE OF THE FAITHFUL IN THE SELECTION OF THEIR PASTORS

The right of the faithful women and men of the parish to participate in the selection of their pastor and/or associate pastor is based on the same principles of election and consent applied in the case of the bishop. Just as the bishop is the chief shepherd in the diocese, so the pastor, representing the bishop, is the shepherd of the parish. Indeed his relationship with the people of the parish is more direct and immediate than that of the bishop.

The terrible abuse of power by parish priests who sexually molested innocent boys and girls and young people makes it imperative that parishioners be fully informed

of the background of their priests and that they participate in the process of choosing them. Sadly, bishops assigned priests charged with sexual abuse to serve in parishes without revealing to parishioners that a predator was being loosed among them. Parishioners have an absolute right to know who is the person entrusted with their spiritual care.

In times past princes and nobles who built churches on their estates often exercised the right of patronage, that is, the right to appoint pastors. Monastic and religious communities also had the right to choose one of their number to serve as pastor of churches in their care. In these instances the bishop had the right to examine the candidate and confirm the choice.

The following process for the selection of pastors and associate pastors is proposed for purposes of discussion and debate.

- **Announcement of the Vacancy.** A vacancy in a given parish should be announced in the diocesan newspaper and in every pulpit in every church.
- **Submission of Applications.** Priests interested in the position should submit their applications to the bishop, who, in turn, will forward the applications and the priests' personnel files to the Parish Council.
- **Preparation of a Parish Profile.** The Parish Council should prepare every year a Parish Profile, describing the character of the parish, its territorial extent, the number of registered parishioners and/or families, their ethnic background, their income, and educational level.
- **Qualities expected in a Pastor.** The Parish Council should prepare a statement concerning the qualities expected in a pastor or associate pastor based on an inquiry among parishioners. Parishioners should be asked to describe the qualities they believe are essential in the one who will be their spiritual leader. Areas to be included are: liturgical celebration; homilies; pastoral care; visitation of the sick and dying; burying the dead; spiritual counseling, and the like.
- **Visitation of the Parish by a Prospective Pastor.** A priest interested in the parish should visit for a period of time so that he and the parishioners can develop a familiarity. This experience should enable him to determine whether the parish is a good fit for him and it should also assist the parishioners in deciding whether he is the kind of spiritual leader they want.
- **Interview by the Parish Personnel Committee.** A Parish Personnel Committee elected by the parishioners (or perhaps by the Parish Council) should interview a prospective pastor or associate pastor. The Committee should truly represent the people of the parish and should include an approximately equal number of women and men, as well as representatives of the youth of the parish. If necessary more than one interview should be conducted. The Committee should have the priest's complete application and personnel file.

- **The Extent of the Interview.** The Committee should inquire into the priest's education; his previous service in parishes or elsewhere; his achievements as pastor (if he served as one); his disappointments or failures in a previous parish; his vision of his role in the parish; his interest in and willingness to work with parishioners; and his ability to delegate responsibilities.
- **Consent of the Parish Personnel Committee.** The Parish Personnel Committee should give its consent to appointment by the bishop. If consent is not given the appointment should not be made and the process should continue until a suitable pastor is found.
- **Appointment by the Bishop.** Once the Personnel Committee has given consent the bishop should make the appointment and install the pastor, thereby testifying to the catholicity of the Church.
- **Term Limits.** As a means of refreshing the spiritual life of both the parish and the pastor, the pastor (or associate pastor) should serve for a fixed term of six years. If he and the parish wish it, his tenure may be renewed at six-year intervals.
- **Removal of a Pastor.** If the pastor should prove to be insensitive, incompetent, financially inept, tyrannical, abusive in any way, including sexual abuse, the parish should have the right to petition the bishop for timely removal of the pastor in accordance with Canon law.

III. DIOCESAN PASTORAL AND FINANCE COUNCILS

A Diocesan Pastoral Council as well as a Finance Council are appropriate means whereby the voice of God's faithful people can be heard in the governance of the diocese.

A. A Diocesan Pastoral Council

An elected Diocesan Pastoral Council representing the whole body of the faithful can be a truly effective instrument for aiding the bishop in the governance of the diocese.

The Second Vatican Council in its Decree, "*Christus Dominus*, On the Pastoral Office of Bishops in the Church" (art. 27), declared that

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

That is the foundational statement for diocesan pastoral councils.

In the following year Pope Paul VI issued an apostolic letter on the implementation of this decree. Noting that *Christus Dominus* "strongly recommended"

the establishment of a diocesan pastoral council, he repeated that it should examine and consider all that relates to pastoral work and to offer practical conclusions (para. 16.1). However, he went beyond *Christus Dominus* when he stated:

the pastoral council, which enjoys only a consultative voice, may be established in different ways. Although of its nature it is ordinarily a permanent institution, it may be temporary as regards membership and activity and exercise its function as occasion arises. The bishop may convene it whenever he considers it advisable (para. 16.2).

Furthermore, he stipulated that clerics, religious and laity who participate in the council are “specially delegated by the bishop” (para. 16.3). Paul VI modified the teaching of Vatican II concerning diocesan councils in three ways. Whereas *Christus Dominus* said only that clergy, religious, and laity should be specially chosen to serve on the council, without stating how they were to be chosen, Paul VI emphasized that they would be delegated by the bishop. Moreover, he stressed that the diocesan council should be purely consultative, and that the bishop could determine whether it should be permanent or temporary, and that he could convene it whenever he wished.

Christus Dominus (para. 27) as well as the Decree “*Presbyterorum Ordinis*, On the Ministry and Life of Priests” also provided for a Senate or Council of Priests (para. 7) “set up in a way suited to present-day needs and in a form and with rules to be determined by law. This group would represent the body of priests and by their advice could effectively help the bishop in the management of the diocese.” Paul VI affirmed that the Priests’ Council should represent the body of priests, but that its role was purely consultative (para. 15). He also emphasized the importance of coordinating these councils, by defining “their competence, mutual participation of their members, through common or continuing sessions or by other means” (para. 17).

The next step in this development was the incorporation of these principles into the revised Code of Canon Law promulgated by Pope John Paul II on 25 January 1983. The Code encourages, without mandating it, the establishment of a Diocesan Pastoral Council, and sets down certain rules concerning its composition, functions, membership, term of office, convocation, and publication of its activities. Canon 511 states that “to the extent that pastoral circumstances recommend it,” a Diocesan Pastoral Council “is to be established.” Its functions are those set out in *Christus Dominus* and in Paul VI’s apostolic letter, namely, “to investigate under the authority of the bishop all those things which pertain to pastoral works, to ponder them and to propose practical conclusions about them.”

The Council should consist of persons “in full communion with the Catholic Church,” namely, clerics, religious, and “especially lay persons” who are “designated in a manner determined by the diocesan bishop.” Those “appointed to the Pastoral Council are to be so selected” so as to reflect the entire body of the faithful in the diocese, taking account of different regions, social conditions and professions, and of the apostolic works of the members, “whether individually or in association with others.” Persons appointed

to the Council must be “of proven faith, good morals and outstanding prudence” (Canon 512).

The Council should be established for a definite term in accord with statutes drawn up by the bishop. If the see is vacant, the Council would lapse (Canon 513). Canon 514 emphasized that the Diocesan Pastoral Council “enjoys only a consultative vote.” The bishop, who presides over it, may convene it at will, but must do so at least once a year. Only he may “make public what has been done in the council.”

Such Pastoral Councils exist in a number of dioceses and their statutes or constitutions can be consulted on the internet. However, the Diocesan Pastoral Council as envisioned in the Code of Canon Law and as it exists can best be described as window dressing. The bishop is free to establish the Council or not; he appoints the members; determines how long they will serve; sets the agenda; decides how many times the Council will meet; and controls the publication, if ever, of the matters discussed by the Council. The Council has only a consultative voice, meaning that the members can give their advice, but the bishop is at complete liberty to ignore them. Finally, an appointed Council does not represent the faithful. Given these constraints we must ask how a Diocesan Pastoral Council can be more expressive of the real thoughts and feelings of the faithful.

A new model of a Diocesan Pastoral Council, based on the principles of counsel and consent and elected representation, is necessary. The following points are presented to initiate dialogue on this crucial issue.

- **An Elected, Representative Council.** The Pastoral Council should be representative of the priests, deacons, religious, and laywomen and men of the diocese. Members should be elected by their constituents, that is, priests elected by priests, deacons by deacons, religious by religious, and lay people by lay people. Elections should be held in the spring of each year; those elected should take office in the following fall.
- **Representation from Diocesan Vicariates.** If the diocese is divided into Vicariates members of the Council should be drawn from each of the Vicariates.
- **The Laity as the Majority.** Laywomen and men, as the vast majority of the faithful in the diocese, should constitute the majority of the members of the Council.
- **Numbers of Representatives.** An approximately equal number of laywomen and men should be elected to the Council. One priest, one deacon, one religious, and two lay persons (usually one man, one woman) from each Vicariate should be elected, giving a total membership of twenty-five persons.
- **Meetings and Agenda.** There should be at least two meetings of the Pastoral Council in the fall and two in the spring. Members of the Council should have the right to place items of pastoral concern on the agenda.

- **Publication of Minutes.** In accordance with the principle of transparency, minutes of each meeting of the Pastoral Council should be published in the diocesan newspaper and on the diocesan website.
- **Deliberation under the Presidency of the Bishop.** The Pastoral Council should meet under the presidency of the bishop and act in conjunction with him, but it should have a deliberative, not merely a consultative role.
- **Voting.** Each member of the Council should have one vote. No one should have veto power.
- **Issues of Concern.** The Pastoral Council should have oversight of issues relating to worship, religious education, social concerns, diocesan and parochial administration, and other pastoral works of the diocese.
- **Preparation of a Constitution.** The first task of an elected, representative Pastoral Council should be to draw up a constitution and by-laws to be ratified by the bishop and by the faithful of all the parishes.

B. A Diocesan Finance Council

Since 1950 the Church in the United States has expended more than \$800,000,000 in compensation for survivors of priestly sexual abuse. In 2004 that amount was \$139,600,000. That figure will certainly rise in the coming year. Given those figures the active participation of the laity in the financial activities of the diocese and the parish is all the more necessary. If the laity are to trust that their monetary contributions are being used wisely, they must have a voice in financial administration through a Diocesan Finance Council.

The Code of Canon Law (Canons 492-494) provided that the bishop should establish a Diocesan Finance Council composed of at least three persons skilled in financial affairs and in civil law. The members should serve for five years. Meeting under the presidency of the bishop or his delegate the Council should prepare a budget and examine an annual financial report. A finance officer appointed by the bishop for five years should administer diocesan goods in accord with the budget and should submit an annual report to the Finance Council. Other related canons include: 1291-97, 127, 321, 1258, 1263, 1277, 1281, 1287, 1305, and 1310.

VOTF's Structural Change Working Group has developed Principles for Diocesan Finance Councils (See www.votf.org/Structural_Change/Finance_council.html) While subscribing to those Principles these clarifications are offered for purposes of discussion:

- **An Elected, Representative Finance Council.** The members of the Finance Council should be elected by the laity of the diocese, in the same manner as members of the Diocesan Pastoral Council, and should be truly representative of their interests. Members should be practicing Catholics with financial expertise but without potential conflicts of interest.

- **Constitution and By-Laws.** A constitution and by-laws for the Finance Council should be drafted to regulate the convocation of meetings, the rules for agenda, voting, and the publication of minutes, and so forth.
- **Authority of the Finance Council.** The Finance Council should have real responsibilities and real authority to prepare an annual budget; determine appropriate investments; publish quarterly financial statements; issue an annual financial report in a timely manner; and establish necessary committees.

IV. PASTORAL AND FINANCE COUNCILS AND SAFETY COMMITTEES IN EVERY PARISH

In order to encourage the lay faithful to assume their rightful place in the Church the Second Vatican Council recommended the formation of Pastoral Councils and Finance Councils in every parish. Given the declining number of priests and the clustering and closing of parishes across the country, laypeople in the years ahead will be called upon to take on ever greater responsibility for the very existence of their parishes. The establishment of effective Pastoral and Finance Councils in each parish will also help to prepare lay leadership for the day when a resident pastor may no longer be present. VOTF's Structural Change Working Group has gathered resources for the formation of Parish Councils (www.votf.org/Structural_Change/parishcouncil.html).

In addition, in light of the extensive reports of sexual abuse of children by parish priests, it is vital that appropriate means be taken to protect our children by establishing safety committees in each parish.

A. A Parish Pastoral Council

Reflecting the thinking of Vatican II, Canon 536 of the Code of Canon Law stated that the laity, as members of a parish Pastoral Council, might help the pastor in “fostering pastoral activity.” However, the establishment of such a Council was left entirely to the discretion of the bishop and even when established it would only have a consultative voice.

If a Pastoral Council is to be a viable instrument whereby the laity can be heard in a constructive way in the life of the parish the Council must have certain characteristics.

- **Mandatory Pastoral Councils.** The bishop should mandate the establishment of a Pastoral Council in every parish.
- **Elected, Representative Councils.** The Pastoral Council should be elected by the lay parishioners for a limited term and should be truly representative of the entire parish and of their interests.
- **Number of Members.** The number of members should reflect the size of the parish population.
- **No Appointment by the Pastor.** No one should be appointed to the Pastoral Council by the pastor.

- **Authority of the Council.** The Pastoral Council must have real responsibilities and real authority, specifically in the use, maintenance, and administration of parish property. The Council should also reflect the concerns of parishioners in matters of liturgy, religious education, and the sacramental life of the parish. Only when laywomen and men believe that they have a vested interest in the parish will they be willing to serve on a parish Pastoral Council.

B. A Parish Finance Council

The enormous amount of money expended by the Church in the United States in compensation to the survivors of priestly sexual abuse clearly impacts both diocesan and parochial activities. As one example, if one prorates the \$37,700,000 spent by the Diocese of Bridgeport among its 87 parishes, that amounts to \$433,333.33 per parish. Each of the 363,000 Catholics of the diocese is responsible for \$104, or \$416 for a family of four. What parish programs have been left wanting on that account? How else might families have used that money? Those figures underscore the need for the active participation of the laity in the financial activities of the parish.

The Code of Canon Law (Canon 537) affirmed that there should be a Finance Council in each parish “to aid the pastor in the administration of parish goods.” However, the ultimate responsibility for administering the goods of the parish rests with the pastor (Canon 532).

If the laity are to trust that their financial contributions are being used wisely, VOTF proposes the following:

- **Mandatory Finance Councils.** Each parish should be required by the bishop to have a Finance Council.
- **Elected, Representative Councils.** The members of the Finance Council should be elected by the laity of the parish and should be truly representative of their interests. Not all need be persons with professional financial expertise.
- **Number of Members.** The number of members should reflect the population size of the parish.
- **No Appointment by the Pastor.** No one should be appointed to the Finance Council by the pastor.
- **Authority of the Finance Council.** The Finance Council should have real responsibilities and real authority in managing parish finances. The Council should prepare an annual budget, publish quarterly financial statements, and issue an annual financial report in a timely manner. The minutes of the Council’s meetings should be made public.

C. The Parish Safety Committee

Recognizing that the need to safeguard the children in our parishes is of paramount importance, a Safety Committee should be established in every parish.

- The members of the Parish Safety Committee should be elected annually by the parishioners.
- The Parish Safety Committee should (1) insure that prevention education is conducted annually for all children, parents, and others; and (2) insure that criminal background checks are conducted annually on all parish clergy, staff, and volunteers.

V. THE RIGHT OF THE FAITHFUL TO THE OWNERSHIP OF CHURCH PROPERTY

The recent closing of parishes in various dioceses has riled many parishioners who argue that they own their churches because their money or that of their families built them. Recently the bishop of Bridgeport announced that the diocese was taking twenty-five acres belonging to St. Agnes Parish in Greenwich to be offered for sale at \$15,000,000 in order to help meet the cost of settlements with the survivors of priestly sexual abuse. Parishioners in St. Albert Parish in Weymouth, Massachusetts have physically occupied their church in order to prevent it being closed. When the archdiocese of Portland, Oregon, declared bankruptcy, Archbishop John Vlazny argued that in Canon Law the assets of the parishes were not part of the assets of the archdiocese and therefore should not be included in any bankruptcy settlement.

In St. Louis the people of St. Stanislaus Kostka Church claim that they are the owners of the parish and refuse to hand over the deed to Archbishop Raymond Burke. The archbishop, in turn, has removed the priest from the parish so that no mass can be said there, and he has also placed the lay trustees of the parish under interdict. That is a penalty in canon law which denies them the right to participate in church services. As one canon lawyer put it, it is a mini-excommunication.

In fact Canon 1256 affirms: “the right of ownership over goods under the supreme authority of the Roman Pontiff belongs to that juridic person which lawfully acquired them.” Canon 515.3 states: “a legitimately erected parish has juridic personality by the law itself.” Thus the parish in Canon law is a juridic person with the right of ownership over whatever goods it has acquired. In the Portland case, however, the judge ruled that Canon Law was not operative in his court; rather any determination would be made under civil law. That raises the distinct possibility that in Portland (and in Tucson, Arizona, and Spokane, Washington, which have also declared bankruptcy) parish assets will likely be used to settle archdiocesan debts. What becomes clear is that the parishioners, for all that they may think otherwise, have no right of ownership of their parishes under civil law. The owner is in fact the archbishop or bishop. The following paragraphs will explain how that came to be.

A. Historical Overview

Over the centuries Christians developed many variations in the use and ownership of property for the benefit of the community. Parish churches are a comparatively late development in Church history. At the very beginning Christians lived communally as the Acts of the Apostles (2:44-45) tell us: “all who believed were together and had all things in common; they would sell their property and possessions and divide them among all according to each one’s need.” As Christianity spread, we know that liturgies were celebrated in private homes, or house churches as we now call them. By the third century it is apparent that Christians as a community were acquiring property for use as churches and as cemeteries. Pagan emperors attempted to dispossess them, but Constantine, the first Christian emperor, ordered restitution. Thereafter religious corporations (colleges or *collegia*) owned church property with the bishop acting as the representative of the corporation. Administration was often entrusted to a deacon or archdeacon.

From the sixth century onward Roman law acknowledged that ownership of churches and church property belonged to the Christian community in each place and was to be administered by the bishop. Property was said to be attached to the altar and in effect to be the property of the saint in whose name the church was dedicated. Thus, for example, property belonging to the Roman see was described as the patrimony of St. Peter and the bishop of Rome was its administrator. As such he was not at liberty to alienate church property. Roman law also recognized the right of a layperson to establish a private chapel and to appoint the priest to serve it.

As the number of Christians increased and Christianity spread from the cities into the rural areas, parish churches under the direction of a priest began to appear throughout the east and in Western Europe. Provincial and Diocesan Councils stipulated that the tithes that every Christian was required to pay should be divided into three parts, one for the bishop, another for the parish priest, and the third for the upkeep of the structures.

In the Middle Ages kings and nobles often built churches on their estates and in accordance with Germanic law the lord had a full right of ownership of the church, its appurtenances, and its income. Religious orders (Benedictines, Franciscans, Dominicans) also owned parish churches and like the lay lords appointed pastors with the consent of the bishop. The Council of Trent (1545-1563) tried for the first time to establish a system of territorial parishes in each diocese. Trent also acknowledged that responsibility for the maintenance of churches rested with churchwardens.

In countries where Protestantism became dominant parish churches were taken over by the reformed churches and the celebration of mass was driven underground into private homes or in secret places in the countryside such as the mass rocks in Ireland. The mitigation of the harshness of the Penal Laws against Catholics in England and its dominions in the late eighteenth century enabled Catholics to build mass-houses. In the early nineteenth century these small, primitive structures gave way to chapels.

In America, during the transition from English colonial rule to independence, missionary priests journeyed from one Catholic household to another to offer mass. In time ethnic groups such as the Germans and the Irish raised the money to build churches and hired priests of their own culture to serve them. Corporations of lay trustees owned the church building and adjacent land and controlled church finances. The laymen who had this responsibility were usually the well-to-do members of the community who held pews in the church and paid pew rent for the privilege. Poorer people had no say in the matter.

After independence individual states enacted legislation establishing boards of lay trustees of churches of any denomination. On April 6, 1784 New York State passed a law (amended in 1813) allowing the male adult members of the parish to elect trustees. The trustees became a corporation with power to administer the temporal affairs of the parish. Clergy were excluded from the boards of trustees. Other states imitated the New York law.

As the Church grew in the United States in the period between 1785 and 1829 conflicts between lay trustees and bishops occurred in several cities, most notably, New York, Philadelphia, Charleston, South Carolina, and New Orleans. In some instances these conflicts were provoked by ambitious priests not willing to obey the bishop. In other cases quarrels arose over ethnic differences. German Catholics wanted German speaking priests; Irish Catholics didn't want French priests, and so forth. Unfortunately these disputes sometimes led to schism, as for example, the Hogan schism in Philadelphia.

Prompted by the Hogan schism, Pius VII on August 24, 1822, asserted the right of the bishops to control church property and rejected the right of patronage claimed by the trustees as novel and unheard of. The First Provincial Council of Baltimore in 1829 (decree 5) urged bishops to demand the property deed before dedicating any future church and denied the right of patronage, arguing that by reason of their benefactions benefactors did not acquire any right of patronage over churches (decree 6). Decrees 7 and 8 provided penalties for refractory clerics. The subsequent provincial Councils of Baltimore (1837, 1840, 1843, 1847 reiterated this legislation. The First Plenary Council of Baltimore in 1852 extended the legislation to the entire country.

While controversies continued in New Orleans, Philadelphia and New York, new civil legislation provided a means of resolving the issue. New York State enacted a law on March 25, 1863, providing for a corporation aggregate, that is to say, a corporation composed of the bishop, vicar-general, pastor, and two lay trustees chosen by the other three. By creating a board of trustees dominated by the clergy and authorizing them to choose the lay minority, the law effectively gave the bishop control over parish property. After 1884 trusteeism occurred mostly among Slavic immigrants from Central and Eastern Europe. This led to the formation of the Polish National Church.

Two basic forms of ownership have developed in response to the issue of trusteeism. In the first instance the bishop is a corporation sole, that is, he alone

constitutes a corporation that includes all the property in his diocese. The other type is characteristic of the northeastern part of the United States. Under the civil law of the State of Connecticut (chapter 598), for example, the parish corporation consists of the bishop, the vicar general, the pastor, and two trustees nominated by the pastor. None of these persons are elected by the people of the parish and thus cannot be said to represent the parish community. In fact, the people of the parish have no say in the disposition of parish property.

B. A Proposal for Ownership by the Faithful

If, as Vatican II states, the Church is the People of God, ownership should be vested in the local community or parish. Believing that this issue should be aired in public discussion, the following proposal is offered:

- **Formation of a Parish Corporation.** A Parish Corporation consisting of all the registered parishioners, the bishop, and the pastor should be established as the owner of parish property. This may require changes in the Civil Law.
- **Officers of the Parish Corporation.** The registered parishioners should elect ten or more laypeople (approximately equal numbers of men and women) as directors and officers of the Corporation. These persons should be truly representative of the parish community as a whole. The bishop and the pastor should be *ex officio* officers of the Corporation. Three other officers of the Corporation should be elected from the lay directors.
- **Rights of the Parish Corporation.** The parish Corporation should have the full right to use, administer, and maintain parish property in order to further the spiritual welfare of the Catholic community. The Corporation should also have the right to build, expand, or acquire additional property, and to sell unneeded property.
- **Dissolution of the Corporation.** When the parish community is no longer viable because of an insufficiency of numbers or other valid reason, all the registered parishioners should have the right to dissolve the parish Corporation and to sell or donate all its assets.
- **Application of these Principles to Diocesan Property.** The same principles should be applied to diocesan property. A diocesan corporation should be established including elected representatives from each of the parishes in the diocese, and *ex officio* members, namely, the bishop, the vicar general, and the chancellor. Laypersons, excluding lay religious, should comprise the majority of the diocesan corporation and of its officers.

Implementation of these Proposals

The implementation of these proposals will not be accomplished easily as there are several obstacles that have to be overcome.

First among them is the inertia and timidity of the bishops who may see these proposals as threats to their position of power. Acknowledging that a change made in one diocese could be taken as a precedent for others, the bishops are not likely to act without the consent of their fellow bishops and without obtaining approval from Rome. A major change in the mindset of the hierarchy is necessary if these proposals are to be implemented.

Secondly, there is need to change the mindset of the laity who have been excluded from any significant decision-making role in the Church and have been persuaded to believe that their function is to “pray, pay, and obey.” We laypeople, men and women, have allowed ourselves to be treated as children. We need to stand up as adults and to claim our rightful place in the Church by virtue of our baptism.

Now let us consider the obstacles to each proposals, beginning with those that seem easiest to achieve.

A. Parish Pastoral and Finance Councils and Safety Committees

- **Consultation and Deliberation.** Finance Councils are mandated by canon law. The bishop can also require pastors to establish pastoral councils. Some pastors may balk at giving up the right of appointment, convocation, and determination of the agenda. Both the bishop and the pastor may be unwilling to allow these councils to have deliberative authority. As canon law speaks only of consultative authority, a change is necessary. Nevertheless, many pastors may feel liberated to focus their energy on spiritual and pastoral leadership if the onerous tasks of parish administration and finance are transferred to these councils.
- **Safety Committees.** The bishop can also require pastors to establish parish safety committees. This should cause little difficulty.
- **Dialogue with the Bishop.** If these Councils do not exist, members of VOTF should ask to meet with their pastors and with their bishop about establishing them.

B. Diocesan Pastoral and Finance Councils.

- **Consultation and Deliberation.** Diocesan Finance Councils are also mandated by canon law and some bishops have established Diocesan Pastoral Councils. Bishops may be unwilling to give up their sole right of appointment or to allow these councils to have deliberative authority. The canon law authorizing only a consultative voice must be changed. The bishop’s authority is limited by canon 1277 that requires him to have the consent of the Finance Council before he can expend money over a stated amount.
- **Liberation of the Bishop.** The investment of greater authority in these Councils ought to free the bishop from the administrative and financial

burdens that currently impede him from exercising his office of preaching and teaching in an effective manner.

- **Dialogue with the Bishop.** If these Councils do not exist, members of VOTF should ask to meet with the bishop to discuss their establishment.

C. Selection of Pastors

- **Possible Action by the Bishop.** Each bishop can facilitate the participation of the faithful in the selection of their pastors. However, bishops may hesitate to yield authority in this respect.
- **Interviews.** Priests may also be unwilling to participate in the interview process, although interviews are an everyday occurrence in the lives of their parishioners and should not be viewed as adversarial.
- **Contentiousness among Parishioners.** The right of the bishop to make the final appointment should overcome any contentiousness that might arise among parishioners.
- **Inadequacy of Candidates.** Declining numbers and the aging of priests may make it difficult for a parish to find a priest to meet its needs. This will continue to be a problem until the Church acts to increase the number and quality of its priests.
- **Dialogue with the Bishop.** Members of VOTF should request a meeting with their bishop to discuss this possibility.

D. The Election of Bishops.

- **An International Issue.** The election of bishops is an international issue transcending every diocese and country. Consequently, the implementation of this proposal will require the consent of the bishops throughout the world as well as of the Vatican. Changes in the canons will be required. However, there has been a consistent body of opinion among churchmen of all ranks that a return to the election of bishops is desirable.
- **Decentralization and Subsidiarity.** As episcopal elections will lead to a decentralization of power and a loosening of the ties that keep the bishops in dependence on the Roman Curia, it is likely that the Curia will be reluctant to yield its authority and thus will oppose this proposal. Nevertheless, many bishops believe that the Curia is excessively intrusive and does not acknowledge the importance of the principle of subsidiarity.
- **Politics in the Church.** Declaring that there is no place for politics in the Church, some will object that an election has the potential to create factions among the clergy and/or the people. By their very nature, however, human beings act in political ways in matters of governance. This is amply evident in the history of the Church. The archbishop's right to confirm and to consecrate the bishop-elect should act as a restraint on the election of someone who is unworthy.
- **The Quality of the Candidate Pool.** The argument will be made that the quality of the candidate pool will be lessened if the bishop must be chosen

from the local clergy. Experience has shown, however, that able and competent priests, thoroughly familiar with the spiritual and pastoral needs of their people, are to be found in every diocese. The election of a bishop who is known to his people and clergy should provide effective leadership for the diocese.

- **Planning for the Future.** Before a bishop dies or is transferred, members of VOTF, rather than passively awaiting a new papal appointment should develop a plan for the participation of the faithful (clergy and people) in the process. Present canon law allows the papal nuncio to consult in secret with diocesan consultors and with laypeople of outstanding wisdom about possible candidates for the episcopacy. Members of VOTF could suggest persons of “outstanding wisdom” who might be consulted and could also recommend diocesan priests who are worthy of the episcopacy.

E. Ownership of Church Property.

- **Changes in Canon Law.** Perhaps the most complicated proposal concerns church property because this necessitates changes in both canon and civil law. Bishops will likely raise the specter of trusteeism and will not act without general agreement among themselves and approval from Rome.
- **Changes in State Law.** As the ownership of church property is regulated by state law, the laws of each state will have to be changed to implement this proposal. That cannot be done without convincing the bishops that it is to their advantage.
- **The Liberation of Bishops and Pastors.** The transfer of the burdens of ownership to the faithful will not only call upon their expertise in financial and administrative matters but will also enable bishops and pastors to concentrate on their primary responsibility to teach the Gospel.
- **Dialogue with the Bishop.** Members of VOTF should ask to meet with the bishop to discuss the canonical and civil law relating to the parish and to the diocese.
- **Dialogue with Legislators.** At the same time members of VOTF should initiate discussion with state legislators about the status of the parish and diocese in state law and about the means of changing the law.

Conclusion

The proposals just described are intended to spur discussion about crucial areas of church government and administration. Since the Second Vatican Council we have been told many times that “this is our Church” and that we must take responsibility for it. If it is truly to be our Church, then all of us, bishops, priests, deacons, religious, and laywomen and men must have a real sense of ownership. In the present circumstances only the bishop has that.

In order to convey a sense of ownership our proposals are founded on the ancient principle of counsel and consent. Their aim is to suggest the means for the laity to

participate in the governance of the Church without demeaning the authority of the bishop or the pastor. We believe that our proposals are prudent and just and in conformity with the Christian tradition. If the Church is the People of God, then it is time for antiquated structures and procedures to give way to structures that truly exemplify the vision of the Second Vatican Council.

We hope that the bishops will take to heart Pope John Paul II's admonition of September 2004 to commit themselves "to creating better structures of participation, consultation, and shared responsibilities." Each bishop could take a first step in the direction by encouraging discussion in the parishes of the proposals presented above preparatory to the convocation of a diocesan synod where they can be debated and refined. A Church acting on the "counsel and consent of the people" will be a vibrant Church, energized to spread the Good News of Our Lord and Savior Jesus Christ.