



**Congregation of the Sacred Hearts of Jesus and Mary
(Brothers)**

JURIDICAL QUESTIONS

General House
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Table of contents

1. THE PROVINCIAL SUPERIOR AND HIS COUNCIL	5
2. TYPES OF VOTES IN THE COUNCIL	8
3. ERECTION AND SUPPRESSION OF HOUSES.....	12
4. ALIENATION.....	14
4. ALIENATION.....	14
5. SEPARATION FROM THE INSTITUTE.....	17
A. Indults and Dispensations	17
1. Permission of absence (can. 665 § 1).....	17
Unlawful absence from a religious house (can. 665 § 2).....	18
2. Exclaustration (cc. 686 – 687).....	19
3. Indult for a professed of temporary vows to leave the Congregation (can. 688§ 2)	22
4. Definitive departure imposed at the expiration of temporary vows.....	23
5. Transfer from the Congregation to another Institute or Society of Apostolic life or Secular Institute (can. 684-685).....	24
6. Dispensation from vows of a non-cleric (can. 691; 692).....	24
7. Indult of secularization of a cleric (can. 693)	26
8. Loss of the clerical state and dispensation from priestly celibacy (can. 291).....	28
B. Dismissal from the Congregation	32
1. Dismissal “ipso facto”	32
2. Obligatory dismissal.....	33
3. Dismissal at the discretion of the Superior	35

REFERENCES FOR VARIOUS CASES IN UNIVERSAL AND PROPER LAW	38
APPENDIX 1: MODEL INTERROGATION OF SOMEONE SEEKING DISPENSATION FROM CELIBACY	41
APPENDIX 2: MODEL FOR THE INTERROGATION OR ACCOUNT OF WITNESSES	46
APPENDIX 3: MODEL FIRST CANONICAL WARNING	49
APPENDIX 4: MODEL SECOND CANONICAL WARNING	51
APPENDIX 5: DECLARATION OF “IPSO FACTO” DISMISSAL FROM THE CONGREGATION	52
APPENDIX 6: MODEL OF A LETTER TO NOTIFY OF OBLIGATORY DISMISSAL FROM THE CONGREGATION	53

1. THE PROVINCIAL SUPERIOR AND HIS COUNCIL

Existence

Because of the numerous faculties granted him, the **Major Superior** is expressly defined in the Code of Canon Law (can. 620) almost as a local ordinary. He is the one who governs the institute, a Province or equivalent part or a “sui juris” house. The same applies to his vicar.

A **Province** is (can. 621):

- A union of several houses (at least three houses in order to have juridical personality similar to that described in canon. 115.2, although nothing is prescribed).
- Under the same Superior (there is a Major Superior because there is a Province and he is the one who presides over it, not vice versa) with power recognized in law.
- It constitutes an immediate part of the institute (the institute is not divided into independent parts).
- It is canonically erected (the decision to do so is not sufficient. there must be a formal act and a formal decree) by the competent authority (Cf. can. 581. The Constitutions determine this. Proper law will determine conditions for the erection of the Province, the naming of the Superior etc.)

The **Government of the Province** is formed by the *Provincial Superior* assisted by his *Council* in accord with Art. 110 of the Constitutions.

- The Superior has personal authority: CC 101
- Every Superior is obliged to have a Council: he must use it – he can not dispense with it: canon 627 (canon hereafter: c); CC 94.
- It is not an ordinary collegial organ (each member fulfilling his proper role: CC 94.

Reason

- It is an expression of the fact that the Superior’s authority, even though personal, is not exercised in isolation but within

the community, in service to the community and in view of the mission.

- It is a guarantee of objectivity, an assurance in discerning the will of God and the decisions that are to be made and it helps avoid partiality.

Characteristics

The Constitutions (n.107) say that the Provincial Statutes must establish:

- the composition (number of Councilors and manner of designation),
- characteristics of the members,
- length of their term.

Functions

The Council:

- Functions as a government team:* communion of spirit and coresponsibility.
 - It is founded on mutual trust and discretion/confidentiality about matters discussed.
 - It must get beyond trends, group interests etc. that may have existed before the election; the counselor is not a representative of a group or a mentality, even though he can express a certain sensitivity, desires etc. He is a member of a team and in the service of the whole Province.
 - The Council is not an “autonomous” power or “in opposition” to the Provincial, but an organ of collaboration and service.
 - Its mission is not particular or exclusive to itself (nobody has exclusive responsibility, even less is anyone proprietor of the finances, formation...)
 - The sense of “we”: avoid distancing (you/I), self-sufficiency, continuous criticism, suspicion.
- It collaborates with the Superior in the exercise of his responsibility* (the good of each brother, spiritual animation, fulfillment of the mission, unity with the Congregation and the Church CC 113):
 - By Council, including correction.

- By voting as required according to different cases:
 - o Deliberative vote: the positive vote of the Council is necessary to act but it does not oblige the Superior to act.
 - o Consultative vote: the Superior must ask for it for the validity of the act (Statute 41) but he is not necessarily bound to “follow it.”
- c. On the Superior’s part:
 - To accept the Councilors as persons and as Councilors.
 - To create a sense of team and to give an identity to the group.
 - To listen to them and to keep them informed.
 - To stress working as a team.
 - To support them and to back them in their personal work and as members of the team.
 - To propose things to them, to involve them in the work of government and animation.
- d. On the Councilors’ part:
 - To share concerns, viewpoints about the Province...
 - To report periodically to the Superior and to the Council.
 - To coordinate his projects and work with the other members.
 - To help one another in their work.
 - To mutually support one another.

Is the Superior considered a part of the council having the right to vote with the other members?

It would seem that if he has to ask for their vote or their counsel, he would have to abstain. However many Constitutions speak of the Council as composed of the Superior General and his councilors. In that case his participation in voting must be allowed, without that prejudicing his personal authority (and freedom) when he has to put forward a decree or a juridical act, nor his faculty to not act if the proposal is a minority one. If the Constitutions do not say anything, it would be problematic, unless there is already an existing custom.

2. TYPES OF VOTES IN THE COUNCIL

Collegial acts, elections or resolution of matters are regulated by can. 119.

Can. 127 refers to non-collegial acts, when the Superior needs consent of Council.

And can. 164-183 treat more specifically of elections and postulation for a position.

1. Collegial acts: can. 119

a. Elections:

- A majority of those who must be convoked must be present.
- Approval by absolute majority on the first two ballots.
- On the third ballot only the two with the most votes have passive voice. If there is a tie, the one who is older in age is elected (according to common law). In elections in the General Chapter the younger is elected (CC. 127.3a). The statutes of Major Communities will determine how a tie is broken.

b. Other matters:

- A majority of those who must be convoked must be present.
- Approval by absolute majority on the first two ballots.
- If there is a tie on the third ballot, the president can decide.

2. Non collegial acts: can. 127

a. All those who have a right to be must be convoked.

b. For validity the absolute majority of those present is required or the counsel of all must be sought:

- If consent is required, the Superior can not act if he does not receive it. If he acts without requesting it or against it the act is invalid.
- If counsel is required, the Superior is obliged to seek it. If he does not, the act is invalid. But the Superior is not obliged to

follow the “counsel” even if it was given unanimously (but he should do so unless there is an “overriding” reason.)

- c. All those who must give their vote, either deliberative or consultative, are obligated to manifest their opinion.

Votes to resolve a matter or to conclude an election can require, according to the situation, a simple (or relative), absolute or qualified majority:

- **Simple or relative majority** is one in which one choice has a larger number of votes than others, independently of the number of voters (a relative majority is obtained when option A gets 6 votes and options B and C each have 4 votes).
- **Absolute majority** means that a given option obtains more than half the votes to be counted (sometimes we speak of “half plus one.”) (There is an absolute majority when the votes to be counted are 11 and one option gets 6 votes, getting the absolute majority as half would be 5.5. There is no absolute majority if one option only gets half the votes (10 out of 20; in that cast the absolute majority would be 11).
- **Qualified majority** is one that is required in particular cases determined in universal or proper law: two thirds for election to consecutive terms for a Superior General, for example.

According to Canon Law

Collegial Acts:

- c. 699 § 1: In order to issue a decree of dismissal of a professed (the Superior General and four Councilors).

Deliberative Vote:

- c. 638 § 3: Validity for the alienation of goods or any operation that could be detrimental to the patrimony of a juridical person.
- c. 647 § 1: Erection, transfer and suppression of the novitiate house
 - § 2: To make the novitiate in a house other than the novitiate except in particular cases.
- c. 656 § 3: Admission to first profession according to law.
- c. 665 § 1: Permission for someone to live outside the community for a just cause for not longer than one year (except in the case of sickness, study or apostolate in the name of the institute).
- c. 697 § 3: Forwarding to the Superior General the acts concerning the dismissal of a professed.
- c. 703: Immediate dismissal for reason of grave scandal or harm given its urgency (it may even be done by the local superior).
- c. 684 § 1: Transfer from one institute to another (Superiors General with the consent of their Councils).
- c. 686 § 1: Exclaustration for no more than three years of a religious in perpetual vows.
 - § 3: To request the Holy See to impose exclaustration.
- c. 690 § 1: Readmission to the Congregation without repeating the novitiate.

Consultive Vote:

- c. 689 § 1: To exclude someone from temporary profession (including for reason of sickness – other than dementia – contracted after first (profession) if it impedes the living of one’s consecration unless contracted by neglect or by reason of work done in the Institute.)
- c. 697 § 1: To initiate a process of dismissal.

Left to be determined by the Constitutions:

- c. 609: Who is the competent authority to erect a house.
- c. 616: To determine the method by which the Superior General suppresses a house.
- c. 641: Who has the competence to admit (candidates) to the novitiate;
- c. 657 § 2: who is the competent Superior to extend the time of temporary profession (not more than nine years);
- c. 668: to modify dispositions in a will or the cession of use and usufruct after profession.

3. ERECTION AND SUPPRESSION OF HOUSES

Can. 680-616

1. The religious community must:

- Live in a legitimately constituted house: in conformity with Canon and proper law.
- Under the authority of a Superior, designated according to the norm of law.
- Must have an oratory where the Eucharist is reserved as center of the community.

2. The erection of the community:

- a. Is the formal and legitimate act of constitution by the competent Superior (normally the Major Superior) (CC 100.1):
 - It gives the community juridical personality.
 - It is done by a (written) decree of the Major Superior.
- b. It is necessary to have previous permission of the diocesan Bishop (not a vicar) in writing. It is best that the conditions and requirements are clear.

3. The erection of the novitiate house:

Corresponds to the Superior General with the consent of his Council (can. 647.1 and CC 77).

4. Change in a religious house:

- a. To change the purpose of a religious house (its apostolic activities) or the conditions indicated when founded the consent of the Bishop is necessary.
- b. Changes involving the interior regimen and discipline do not require permission of the Bishop.

- c. Moving to another building can require a new permission of the Bishop if the change modifies the conditions and purpose of the house.

5. Suppression of houses:

It corresponds to the Superior General (can. 616.1 and CC 100.2).

4. ALIENATION

Can. 634-640

1. Institutes, Provinces and houses by proper law, as juridical persons, have the capacity to acquire, possess, administer and alienate temporal goods (c. 634 § 1). This capacity can be excluded or limited by the Constitutions. To be avoided:
 - All form of luxury in as it is contrary to poverty: an excessive desire for display, emulation of that kind of lifestyle by individuals and community.
 - All forms of immoderate gain.
 - Every type and kind of accumulation of goods.
2. The temporal goods of religious as ecclesiastical (goods) are governed by book V of the Code of Canon Law, unless otherwise indicated, and by the proper law. (Proper law) must determine the acts which exceed the purpose and the mode of ordinary administration and establish what is necessary for an act of extraordinary administration.
3. Ordinary administration includes all the acts, which regularly and periodically are necessary to satisfy the normal needs of the Institute (persons, communities and goods).
4. Acts of extraordinary administration are:
 - alienation;
 - all business that affects the condition of the patrimony of the juridical person; in a negative manner;
 - fixed banking operations, high risk investments which tie up the capital for a long period of time;
 - payment of massive debts;
 - investments that involve alienation;

- expenses which are not for the purpose of the normal maintenance and functioning of the life and mission of the institute or the community.
5. Alienation is a faculty inherent to financial capacity according to canons 1291 and 1295. Comparable to alienation:
- any transaction in which the condition of the patrimony of the juridical person runs the risk of deteriorating;
 - any transaction whose amount exceeds the maximum quantity predetermined by the Apostolic see for each region;
 - any transaction in which something given to the church by reason of a vow is involved;
 - any transaction involving objects that are precious by reason of art or history.
6. Requirements for alienation:
- a. Written permission of the competent Superior with the consent of his Council: the vice-provincial and the other Superiors of the Province up to the quantity fixed by the Provincial with his Council; the provincial up to 70% of the amount permitted by the Holy See. (Statutes 107) The General Government up to 100%.
 - b. Permission of the Apostolic See (besides the foregoing) and the “nihil obstat” of the local ordinary:
 - To exceed the limit fixed for it.
 - To alienate gifts given by reason of vow.
 - For artistic objects.

Documentation that must be prepared

- The diocesan Bishop, where the land to be sold is located, must be notified. He must be “notified”. Authorization is not necessary only notification. The reason for notifying him is in case the diocese might be interested in purchasing it. As it is already property of the church it is appropriate that it continue to be so. But if the diocese is not interested, or can not pay the price of the land, it can be sold to someone else (can. 1293.2).
- When the request is made to the Superior General a document from the local Bishop’s office must be sent that says “it has been informed and there is no problem with the execution of the sale.”
- If the value of the land is more than the quantity established by the Episcopal Conference of the country in these cases, permission must then be sought from the Holy See (can. 1292.2).
- To obtain the permission of the Holy See, the Major Superior must send a request addressed to the Holy Father with a valuation of the land, done by experts and in writing, indicating the size and value of the land, and existing buildings if there are any and the value of the land and its buildings (if such exist) (can. 1293. 1, 2).
- Reasons for the sale: in making the petition the reasons that justify the sale must be specified. Include this in the letter sent to the Superior General asking permission for the sale and that it be processed through the Holy See, when that is necessary. The Procurator General then takes the request to the Holy See with all the documentation sent to the Superior General.
- How the money from the sale will be used: It is enough to indicate this in the letter sent to the Superior General. (can. 1294.2)
- One copy of everything is sufficient. Not handwritten unless clear and legible.
- Send it all to the Superior General.

5. SEPARATION FROM THE INSTITUTE

A. Indults and Dispensations

- An indult is a favor not a right. It can be granted or not.
- It can not be imposed, but the one who grants it can withdraw it at any time and the one who receives it can refuse it.
- Frequently the permission that is being sought is poorly stated as regards the reasons presented or objectives foreseen. The right permission must be granted that corresponds to what the person is really seeking.
- At times the motivations for what is being requested are not adequate (for example, permission of absence in order not to have to accept an assignment to a certain place.)

1. Permission of absence (can. 665 § 1)

1. Every religious must live in a proper house, in other words, in the one to which he has been assigned by the competent authority, not in another house of the same institute.
2. Permission of absence from community life is only a temporary suspension of the obligation to live in the proper religious house observing the common life:
 - The religious continues to be subject to the Constitutions and norms and to the Superior.
 - He enjoys all the privileges and rights of the other members of the institute.
 - It does not give him the right to remain outside the community and
 - He must return when he is told to or when the permission expires.
 - He can exercise active and passive voice, unless the Major Superior deprives him of that right.

If a cleric, he needs faculties from the Ordinary of the place to exercise the ministry.

3. It is the competence of:

- a. The Major Superior, with the consent of his Council and for a just cause, to give permission of absence from community life for not more than one year, unless for reasons of sickness, studies or ministry, in which case it can be for a longer time, even as long as the reason lasts.
- b. The Apostolic See for a period longer than a year, unless for reason of sickness, ministry or studies.

4. Requirements and procedure:

- a. The interested party requests it in writing of the Major Superior, indicating the reasons,
- b. The Major Superior, with his Council, studies the petition and grants it or not,
- c. If granted, the Major Superior gives the permission in writing, specifying the conditions of life during the time of absence. This document must be signed by the interested party.
- d. In case of recourse to the Apostolic See, the Major Superior must send the request of the interested party to the General Government with the opinion of the Major Superior and his Council.

5. Notification:

The Provincial Secretary will communicate to the General Government when such permission is granted indicating the reasons and the circumstances.

Unlawful absence from a religious house (can. 665 § 2)

1. Illegitimate absence from community happens:

- when a professed moves out of his community without permission,
- when he does not return to it at the end of the time of the permission of absence,
- when even if the permission was conceded legitimately, it was sought with the intention of shirking the obligations of obedience.

2. It can also be unlawful when the Superior grants the permission without the consent of his Council or when it is granted without just cause even if with the consent of the Council.
3. The Superior of the Major Community has to inform the Superior General of the situation as soon as possible. The Superior carefully and respectfully must help the religious to return to the community. Out of concern for him he must try to help him.
4. Should the effort to seek him out and help him fail, penalties can be imposed as a remedy: suspension of rights, deprivation and disqualification to exercise some offices, suspension of ministerial faculties if he is a priest etc.
5. If, in spite of everything, this absence is prolonged for more than six months the process of dismissal can be begun. In that case it is necessary to faithfully follow the norms of universal and proper law (can. 665 § 2; 696,1).

2. Exclaustration (cc. 686 – 687)

1. This only applies to perpetually professed. It is a contradiction in terms for a temporary professed whose suitability for religious life is being tested to remain outside the Institute. Exclaustration is a temporary separation from the institute, a way of leaving it although only for a time.
2. Exclaustration is granted by the Superior General with the deliberative vote of his Council (what was formerly reserved to the Apostolic See, has been conceded to Superiors General with the deliberative vote of their Council.)

2.1. Simple exclaustration

- a. *For five years:* it is the competence of the Superior General, the request of the interested party must be **addressed to the Superior General**.
- b. *For more than five years:* it is the competence of the Holy See, the request of the interested party must be **addressed to the Holy Father**.

- c. *Necessary documents*: the same as for a dispensation from perpetual vows (only one copy)
- d. *Requirements*: serious reason and the consent of the diocesan Bishop where the religious is to reside
- e. Juridical situation:
 - He is freed from the obligations incompatible with his new situation (the canon is imprecise given the variety of situations).
 - He can wear the habit (important in some countries because of social considerations and financial help of the faithful).
 - He depends on the major superior (if he is absent, on the local superior) in the area of ministry and finance and on the local ordinary.
 - Suspension of active and passive voice (not as a penalty but given the reality of his situation).

2.2. Imposed Exclaustration (can. 686 § 3)

1. This is exclaustration imposed by the Apostolic See (CIVCSVA), for grave reasons, by request of the Superior General, not sought by the party in question, from whom obviously no consent is required.
2. This can be imposed both on perpetually and temporally professed. There is no fixed length of time. That depends on the discretion of the one imposing it.
3. It is meant to be medicinal and not a punishment. It is an intermediary step between the voluntary departure of one who does not desire such and dismissal which is not possible. It is related to the demands and difficulties of common life, especially on the part of those who are unbalanced, the pathologically sick who cause serious difficulties in community life etc.
4. The one exclaustrated is freed from obligations incompatible with his situation: commitments of community life, anything which prevents him from living a normal life in society... He does not have active and passive voice but enjoys all the other rights deriving from profession.

5. He depends on:
 - The Superiors:
 - o Who can impose some obligations (controls, place of residence, requirement to return etc.)
 - o As those who have responsibility for him (financial help if necessary, defense etc.).
 - The local Ordinary in everything affecting the exercise of the ministry.
6. Requirements and procedure:
 - a. If after examining the situation carefully and if he considers that there is reason to do so, the Major Superior with his Council will send the Superior General a detailed report in which he will present the reasons for the request and the efforts made to resolve the situation in another way.
 - b. If it is a cleric, the consent of the local Bishop where he will reside must be included.
 - c. The Superior General, with the consent of his Council, petitions the Apostolic See.
7. Notification:
 - Once the response of the Apostolic See has been received, this is communicated to the Major Superior with the relevant document.
 - The Major Superior communicates it to the interested party (his acceptance is not required.)

2.3. Indult of qualified exlaustration

1. The expression is not found in the Code. It refers to a kind of reduction to the lay state which is partial and for a certain time.
2. The deacon or priest exlaustrated continues to belong to the Congregation, in the manner described in the rescript. He is deprived of active and passive voice.
3. It is always the competence of the CIVCSVA.

4. Requirements and procedure:
 - a. It is the same as in the case of exlaustration.
 - b. A copy of the document attesting to the delivery of the indult to the party involved must be remitted to the Apostolic See through the Procurator General
 - c. At the completion of the time granted (ordinarily one year), recourse must be made to the Apostolic See, through the office of the Procurator General, in order for the party to be reintegrated into the Congregation or to leave definitively.
5. Notification:

The same as indicated for exlaustration.

3. Indult for a professed of temporary vows to leave the Congregation (can. 688§ 2)

1. During the time of his vows a temporary professed can request a dispensation for grave reasons.
2. It is the competence of the Superior General with the consent of his Council. The confirmation of the Apostolic See is not needed.
3. Requirements and procedure:
 - a. The temporary professed puts his request in writing to the Superior General, indicating reasons and motives and sends it through his Major Superior. This petition will be accompanied by a report of the formator or Superior, as appropriate.
 - b. The Major Superior, with his Council studies the petition and accompanying reports and sends the Superior General a report with his opinion, underlining the reasons for the request. It is good to include a brief curriculum vitae of the professed which helps to understand his petition.
 - c. It is to the Superior General, with the consent of his Council, to grant the indult requested.
 - d. If the petitioner is a cleric, once he has obtained the dispensation from temporary vows, he comes back to the diocese of origin.

4. Notification and record:

- a. Once the indult has been granted the General Secretariat sends it in triplicate to the Major Superior, who sees that the petitioner receives it. If when he is given it the petitioner does not reject it, it takes effect. If he refuses it, the indult remains without effect. If he does not receive it nor reject it after ten days it is no longer valid. It is advisable that there be written proof of delivery, either by the interested party signing a receipt or by a certificate, signed by witnesses and dated.
- b. The Provincial Secretary will make the corresponding notation in the registers and will send a copy of the documentation of the delivery of the indult to the General Secretariat.

4. Definitive departure imposed at the expiration of temporary vows

1. If grave cause exists, a temporary professed can be excluded from the renewal of vows or from perpetual profession by the Major Superior after having heard his Council. Such causes do not have to be criminal or culpable, but such that they make the person incapable of profession, and for his good and that of the institute it is better that he not renew or make profession. Such would be the case of someone who is sick either physically or psychologically.
2. Sickness can exclude someone from profession, if it was contracted before or after first profession, if it makes the person unable to live the life of the institute. This should be confirmed by a doctor who guarantees its existence, assuring that it is incurable if he remains in religious life and that he has more opportunities for healing outside of religious life. This sickness would not exclude someone from profession if it was contracted by culpable negligence of the Superiors or if it were caused by work done in the institute.
3. Excluded from this cause is insanity if it was contracted during the time of temporary vows. Even in the case that the person can not renew vows, he can not be dismissed.

5. Transfer from the Congregation to another Institute or Society of Apostolic life or Secular Institute (canons 684-685)

a. *When it involves a member in temporary vows (c. 688):*

- If the time of temporary profession has expired it is enough that he leave the Congregation.
- If his temporary vows have not expired it is sufficient that the interested party address a request to the Superior General asking for a dispensation from his temporary vows and then he leaves.

b. *When it involves a member in perpetual vows (cc. 684-685) it requires:*

- A just cause.
- Permission of the competent authority:
 - o If the transfer is from one religious congregation to another (can. 684. 1-2) the Superiors General (of the one he leaves and of the one he enters) give the permission with the consent of their General Councils. The request of the interested party must be addressed to the Superior General.
 - o If the transfer is from a religious congregation to a secular institute or a society of apostolic life (or vice versa) permission of the Holy See is required (can. 684.5). The request of the interested party must be addressed to the Holy Father.
- A time or probation is necessary in the new institute of at least three years before making final profession.
- Definitive transfer is effected by perpetual profession in the new institute (can. 685. 1 and 2).

Necessary documentation: when it involves members in perpetual vows, the same documentation as for a dispensation from perpetual vows.

6. Dispensation from vows of a non-cleric (can. 691; 692)

1. A perpetually professed only requests a dispensation for grave reasons which have been carefully considered before God. The

indult involves the dispensation from vows and all the obligations deriving from profession. (can. 692)

2. It is the competence of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CIVCSVA). The Superior General and his Council must seriously evaluate said causes, but in reality they do not vote because it is not to them to decide. They simply inform and give their opinion. For that reason they can give a unanimous opinion or not concerning the indult in question.
3. Requirements and procedure:
 - a. The perpetually professed makes his petition to the Holy Father asking for dispensation from vows, indicating the grave reasons which lead him to that decision. It is sent through the Major Superior.
 - b. The Major Superior, with the vote of his Council sends the General Government:
 - o The request of the professed of perpetual vows.
 - o A report of the Provincial Government concerning the perpetually professed who is seeking the dispensation and their opinion concerning the petition, his motives etc.
 - o A brief curriculum vitae of the professed that helps understand his request.
 - c. The General Government studies the request and gives its approval for the General Procurator to process it through the CIVCSVA.
4. Notification and record:
 - a. Once the indult is granted, the Procurator General sends it to the Major Superior, who delivers it to the interested party.
 - b. If when he is given the rescript the party in question does not reject it, it automatically takes effect. His acceptance must not be presupposed. It is advisable that there be written proof of delivery, either by the interested party signing a receipt or by a document, signed by witnesses, indicating the place and date. Challenge or rejection of the

indult is equivalent to retraction of the desire he had expressed to request it. If ten days go by since notification and he has not accepted or rejected it explicitly it loses validity.

- c. The Provincial Secretary will make the corresponding annotation in the registers and send a copy of the document of delivery of the indult to the General Secretary.
- d. The Provincial Secretary will send notification of the dispensation to the pastor and Bishop of the place of baptism.

7. Indult of secularization of a cleric (can. 693)

1. Previously secularization referred to any religious who left the institute definitively. Today it is only used for a clerical religious who is incardinated in a diocese. An indult granted to a presbyter or deacon in order to leave the Congregation and transfer to the secular clergy in order to be incardinated in a diocese, with or without a time of probation. By reason of the indult he loses his status as a religious, is dispensed of the vows and duties deriving from profession and loses all his rights.

2. Two types of secularization:

- a. *secularization "pure et simpliciter,"* by which the Bishop makes effective immediately and definitively the incardination of the petitioner in the diocese as granted by the Apostolic See
- b. *secularization "ad experimentum":* the faculty is granted the Bishop to have the religious cleric for a time of probation (not more than five years) before incardination in the diocese. During this time he continues to belong to the Congregation, according to the conditions expressed in the rescript. If before the five years are up, the Bishop refuses him, the religious must seek another Bishop to receive him or return to the institute.

Someone on excommunication or someone who has received an assignment either from the Bishop or provincial does not have a right to incardination in the diocese. The indult of

secularization granted by the Holy See is always necessary.

3. It is the competence of the CIVCSVA with the consent of the Ordinary disposed to incardinate him in his diocese.
4. Requirements and procedure:
 - a. The presbyter or deacon writes to the Major Superior asking him to process his petition for secularization which is addressed to the Holy Father. Along with his petition there must be the document of the Bishop in which he declares that he is disposed to receive him in his diocese in view of one of the two types of incardination, clearly indicating if it is for a trial period or definitively.
 - b. The Major Superior sends the Superior General:
 - The letter of the interested party to the Superior General asking that he give his approval to begin the process before the CIVCSVA.
 - The petition of the interested party to the Holy Father.
 - The original of the Bishop's document saying that he is disposed to incardinate him.
 - The facts of the curriculum vitae of the petitioner up until the time of the petition.
 - The report and the opinion of the Superior of the Major Community and his Council as to whether to concede what is being requested.
 - c. The Superior General and his Council study the petition and the accompanying documentation and, having given its judgment; send it all to the CIVCSVA through the Procurator General.
5. Notification:
 - a. Once the rescript is granted, the Procurator General sends it to the Major Superior who in his turn sends it to the Bishop who will receive the petitioner.
 - b. The Provincial Secretary informs the Pastor of where the secularized religious was baptized, once he has been definitively integrated in the diocese.

8. Loss of the clerical state and dispensation from priestly celibacy (can. 291)

1. It is the competence of the Roman Pontiff (Canon 291) through the Congregation for the Clergy.

2. Requirements and procedure:

- a. The interested party writes a letter to the Holy Father, signed and dated, requesting the dispensation. In it he must present an explanation of the facts and the reasons for his petition. The petition is given with an explanatory letter to the Major Superior who is responsible for instructing the process.
- b. The Major Superior must judge if the basic conditions and grave reasons exist (Cf. Congregation for the Doctrine of the Faith, Decree *Per litteras*, October 14, 1980) in order to present (the case) to the Holy See, namely:
 - o The case of a presbyter, who having left the ministry a long time ago, wants to regularize his situation.
 - o The case of a presbyter admitted to the priesthood in circumstances such that a lack of freedom, of complete responsibility, of sufficient maturity, of right judgment on the part of formators or Superiors concerning the suitability of the candidate for the life of priestly celibacy might be shown.

If such conditions exist, the Major Superior may proceed to instruct the process and gather the necessary documentation.

- c. The Major Superior may instruct the process himself or through a delegate, naming him “instructor causae” by a written document.
- d. The Major Superior designates, by a written document, a “Notary”, who is to testify to the authenticity of the acts of the process. He must:
 - o Testify to all that has been done and that it is in conformity with the norms established;

- Authenticate with his signature and that of the instructor of the process, each and every document of the process (reports of experts, written testimony, certificates of any kind etc.).
- e. Having completed these first steps, the instructor of the process proceeds to:
 - Question the priest requesting the dispensation according to a questionnaire proposed for such (Appendix 1).
 - Ask for sworn written testimony of all the other persons indicated by the petitioner, as well as all those he himself believes suitable to provide support for the cause.
 - Gather all the documents that could be useful to prove what has been stated by the priest who is seeking the dispensation.
- f. Each witness writes a letter concerning the petitioner in relation to his request for a dispensation from celibacy and what they think of it. For this:
 - The priest instructor writes a letter to the witnesses chosen by the petitioner or by himself. He sends a photocopy of the petitioner's consent that they testify.
 - He must write this letter to the witnesses after reading the petition and the reports about the petitioner and after the conversation (interrogation) had with him.
 - In the letter he will ask that the witness speak about the petitioner in general and some particular aspects that might be deduced from the previous point. (Appendix 2)
 - Once he has all the required documents, the Major Superior sends all the documentation to the Superior General, who studies it with his Council, writes his opinion and through the General Procurator delivers it to the Congregation of the Clergy.

3. Notification:

- a. Once the dispensation is granted, a copy of the indult from the Apostolic See is sent to the Major Superior by the Procurator General, so that he can deliver it to the interested party.
- b. In his turn, the Major Superior must send the Procurator General a written statement that he has notified the interested party of the indult or a copy of the indult signed by the latter which then must be sent to the Congregation of the Clergy.
- c. Notification of the dispensation granted to the local Ordinary and to the parish (or diocese) of the interested party, so that notation can be made in the baptismal registry.

Documentation

1. *Preparatory documents:*

- Request of the petitioner to the Major Superior.
- Communication of suspension from the exercise of orders.
- Delegation of the Major Superior to the priest who is to be instructor of the process.
- Appointment of the notary.
- Declaration by the Major Superior “de non timendo scandalo”.
- Declaration by the Bishop where the petitioner is resident "de non timendo scandalo".
- Oath by the petitioner “de veritate dicenda”.
- Consent of the petitioner that witnesses be informed, including aspects of internal forum and conscience.

2. *Request of the petitioner to the Holy Father*, signed and dated, with the reasons for his decision and his awareness that is irrevocable.

3. *Various reports concerning the petitioner:*

- The petitioner’s *curriculum vitae*, authenticated by the notary. This curriculum must contain not only the essential facts, but also describe his life and how the crisis developed.

- A synthesis of the reports and votes for profession and ordination on the petitioner during the time of his formation. Indicate causes of the vocational crisis.
 - Responses of the interested party to the interrogation of the priest instructor of the process. These must not be concise but must be sufficiently elaborated.
 - The petitioner's certificate of civil marriage (if it exists). And in that case, the decree of dismissal "ipso facto" issued by the Major Superior.
 - Reports of the witnesses.
 - Minutes of Councils approving the petitioner.
 - Copies of documents in the provincial archives must be sent.
 - Correspondence of the petitioner relative to the case.
 - Reports of experts: psychologists, psychiatrists etc.
 - Pastoral attempts to help the petitioner.
4. *Judgment of the priest instructor of the process:* With a brief explanation of the path followed by the petitioner, his crises and the reasons why the dispensation should be granted.
5. *Judgment of the Major Superior.*
6. *Declaration of authenticity by the notary.*

Note:

Once the documents mentioned above have been collected, put in order and numbered page by page, they must be authenticated by the notary and three copies sent to the Congregation for the Clergy. These documents must not include illegible manuscripts. If such exist that have importance, they should be typewritten. Attention should also be given to the legibility of the photocopies that are sent.

The Superior General receives this documentation and submits it to the General Council either in ordinary or extraordinary session. It is presented in triplicate with the vote of the Superior General to the Congregation of the Clergy. A fourth copy is kept by the Procurator General.

B. Dismissal from the Congregation

(Can 694-696; 703)

Dismissal is the juridical act by which a member of the major community is separated from the Congregation in virtue of canon law or by a decree of the Superior General.

Canon law foresees three cases:

- dismissal "ipso facto" (can. 694);
- obligatory dismissal (can. 695; 1395 § 1; 1397-1398);
- dismissal at the discretion of the Superior (can. 696-697; 703).

1. Dismissal "ipso facto"

- a. The cases of "ipso facto" dismissal are established in can. 694 §1:
 - someone who has notoriously abandoned the Catholic faith. This applies not only to apostates but also to heretics and schismatics, it is not sufficient to deny the faith privately or secretly;
 - someone who has contracted marriage or has attempted to do so, even though only civilly.
 - Someone who has been illegitimately absent from the religious house, pursuant to can. 665 §2, for 12 consecutive months, taking into account that the location of the religious himself or herself may be unknown.
- b. It must be "declared" – it is not a judgment- by the Major Superior, in order that it be noted juridically:
 - the Major Superior must gather proof (sworn testimony, writings of the party involved, certificates of matrimony in the case of one who marries civilly, if it is possible to have such) and with the consent of his Council, must issue the declaration of dismissal (can. 694 § 2) (*see appendix 5*);

- once the declaration is made, a copy of same along with proofs, must be sent to the Superior General, the local Bishop where he resides and the pastor (or diocese) where he was baptized;
 - the Major Superior will see as to the way of notifying the party involved of the declaration.
- c) The local Bishop and the parish (or diocese where he was baptized) must be notified of the dismissal.

2. Obligatory dismissal

Obligatory dismissal is established in can. 695 § 1, 1395 § 1; 1397-1398:

- Murder or a grave attack against someone's life or physical integrity, etc.
- Procuring an abortion (what's more this incurs a *latae sententia*).
- Concubinage and other public sins against the sixth commandment, despite due warnings.
- Rape, abuse of minors, as detailed in the canons cited.

By law dismissal is not effected by the crimes *in themselves*. The dismissal is obligatory, in other words, it is up to the Superior to proceed according to the law.

An exception: the Superior can choose not to proceed to dismissal for crimes against the sixth commandment if some conditions are fulfilled (even if these conditions exist he can proceed to dismissal because the principle has precedence over the exception):

- a. that the dismissal is not absolutely necessary as the same result can be reached in another way;
- b. that there be guarantees of amendment;
- c. that the restitution of justice can be provided for;
- d. that the scandal can be effectively repaired.

The Major Superior must do everything possible to help the one involved, including issuing the needed warnings given in writing (can.

1339.3). However the canonical warnings are not necessary to proceed to dismissal.

In the case of abuse of minors committed by non-clerical religious, it is the competence of the CIVCSVA. Those committed by clerical religious are reserved to the Congregation for the Doctrine of the Faith (CDF).

Procedure (supposing incorrigibility):

- a. The Major Superior gathers proof of the facts (suspicion, hypothesis etc. are not sufficient) and informs the person involved in writing of the accusation as well as the proofs, giving him the possibility to defend himself.
- b. All the documents (letters of the Major Superior with the formal accusation, proof and the defense of the one accused), signed by the Major Superior and the Secretary as notary, must be sent to the Superior General who will proceed to issue the decree of dismissal, which must be made in accordance with can. 699 (having weighed the proofs and the reasons, and a secret collegial vote of the Superior general with at least four Councilors). The decree must contain the motives of fact and of law for which it is issued and indicate that the religious can appeal it within thirty days of having received the notification.
- c. Once the dismissal is confirmed by the Apostolic See the interested party is notified of the dismissal before witnesses and he is given the decree, which he can not refuse, however if appealed it is "in suspensivo" during the time indicated.
- d. The local Ordinary and the pastor (or diocese) where he was baptized must be notified.

Crimes committed with minors by religious clerics must be dealt with as follows:

- a. Once the competent Superior has been notified of the offense, and it is at least plausible, he must conduct an investigation informing the religious and giving him the possibility to defend himself (canons 1717; 695.2).

- b. The Major Superior sends all the documentation (minutes, proofs, defense etc) to the Superior General (can. 695.2), who with his vote and that of his Council, both as regards the fact as well as the procedure to be followed, sends it to the CDF.
- c. The CDF will indicate the procedure to follow: either by a penal judgment (it will indicate the competent tribunal, which can decree dismissal from the institute and even from the priestly state) or administratively. In such a case the Superior General will proceed according to can 699.1 issuing a decree of dismissal, which must be confirmed by the CDF. The General Government can decide not to issue a decree of dismissal and instead take disciplinary measures.
- d. In practice, if the accused requests a dispensation from celibacy and the loss of the clerical state, the CDF grants it immediately and the matter is resolved.

3. Dismissal at the discretion of the Superior

1. The reasons and procedure for this kind of dismissal are established in the law (can. 696-700):

Reasons for this kind of dismissal must be:

- grave, external, imputable and juridically proven;
- having to do with the faith (public adhesion to doctrines condemned by the magisterium etc.);
- related to religious life (habitual grave scandal, pertinacious disobedience to a command etc.);
- unlawful absence from the community for more than six months etc..

There is no juridical obligation to proceed to dismissal; it is optional. If the Major Superior believes that there is not sufficient reason to initiate the process of dismissal, and the Superior General does, the latter can obligate him to do so or he can even initiate the process himself.

2. The Major Superior judges that all the fraternal means of correction have been exhausted and asks his Council if it believes that the dismissal process should be initiated (consultative vote). Minutes of this must be kept.
- a. In the case of an affirmative decision, proofs of the alleged acts must be gathered and proceed, as appropriate, to give the canonical warnings in writing or in the presence of two witnesses, in the time frame provided for in the law (can. 697, 698, 699, 670).
 - b. Specifically and clearly stated in the canonical warnings must be the reason, that if it is not corrected he will be dismissed and that he can present reasons and arguments in his defense to the Major Superior or directly to the Father General. Once fifteen days have passed, he is sent the second warning.
 - c. If the conduct of the accused does not change, when more than fifteen days have passed since the second canonical warning, the Major Superior with the consent of his Council decides about the advisability of dismissal. If the decision is positive, the Superior General is sent all the documentation, signed by the Major Superior and his secretary, and he requests that the religious be dismissed.
 - d. The Superior General and his Council, having studied the case and believing that there are reasons for doing so, issue the decree of dismissal. That is then transmitted to the Congregation for the CIVCSVA, along with all the minutes, for the ratification of the dismissal.
 - e. In order to be valid, the decree must indicate the right of the dismissed religious to have recourse to competent authority within ten days of notification.
 - f. Once the decree is ratified by the Apostolic See, the decree must be delivered to the party involved by certified letter or personally in the presence of witnesses. The dismissed can have recourse to the Apostolic Signature within ten days.

- g. Once the dismissal has been confirmed by the Apostolic See, the local Ordinary and the pastor (or diocese) where he was baptized must be notified.

Note: ***In the case of prolonged unlawful absence*** (more than six months):

- If his place of residence is known, once all attempts to reincorporate him have been exhausted, he is to be warned that the canonical process for his dismissal will be begun. If he does not obey then proceed as indicated.
- If his whereabouts are unknown, the Major Superior summons him by means of a letter that is posted on the bulletin board of the Curia or of his last community. A time is given (more than 15 days) with the warning that, if he does not present himself the canonical process for his dismissal will be begun. When the time is passed you proceed as indicated above.
- In the letter to the Father General, the Major Superior must indicate that he asked for a consultative vote before proceeding to the canonical warnings and that he is sending the documentation for the dismissal with the deliberative vote of the Council.

REFERENCES FOR VARIOUS CASES IN UNIVERSAL AND PROPER LAW

object	legislation	competence
Admission to novitiate	can. 641; CC 74.1; 112.1	Provincial with the consent of the Council
Dismissal of a novice	can. 653 § 1	Provincial with the consent of the Council
Admission to 1 st profession	can. 656.3; CC 74.2; 112.1	Provincial with the consent of the Council
Anticipation of 1 st profession (by not more than 15 days)	can. 649 § 2; CC 74.3	Provincial with the consent of the Council
Delay of first profession for as much as 6 months	can. 653 § 2; CC 74.4	Provincial with the consent of the Council
Extension of 1 st profession (not more than 9 years)	can. 657 § 2	Provincial with the consent of the Council
Refusal of admission to renewal of vows or to perpetual profession	can. 689 § 1 - 3	Provincial with the consent of the Council
Admission to perpetual profession	can. 656; CC 74.2; 112.2	Provincial with the consent of the Council
Readmission of a novice, who had completed the novitiate or of a professed who left the Institute lawfully, without having to repeat the novitiate	can. 690	Superior General with the consent of the Council
Admission to ministries	can. 656; CC 74.5	Provincial with the consent of the Council
Admission to orders	can. 656; CC 74.5	Provincial with the consent of the Council
Permission for absence of one year	can. 665 § 1	Provincial with the consent of the Council.
Permission of absence of more than a year	Jurisprudence of the Holy See on the basis of can. 665	CIVCSVA

Indult of excommunication for not more than five years	can. 686 § 1	Superior General with the consent of the Council
Prolongation of the indult of excommunication beyond three years	can. 686 § 1	CIVCSVA
Indult of qualified excommunication	Can. 686	CIVCSVA
Indult of secularization	can. 693	CIVCSVA
Dispensation from temporary vows	can. 688 § 2	Superior General with the consent of the Council
Dispensation from perpetual vows	can. 691 § 2	CIVCSVA
Dispensation from priestly celibacy		Congregation for the Clergy
Dismissal ipso facto	can. 694	Provincial with the consent of the Council
Obligatory dismissal	can. 695; 1395 § 1; 1397-1398	Provincial gathers proof and sends it with the acts to the Superior General
Dismissal at the discretion of the Superior	can. 696-697	Provincial having heard the Council initiates the process; with the consent of the Council he sends the acts to the Superior General; the Superior General with the consent of his Council issues the decree of dismissal
Creation, innovation, change of purpose of a house	can. 609 § 1; CC 100.1	Provincial with the consent of the Council
Suppression of a house	Can. 616.1; CC 100.2	1. The Superior General with the opinion of his Council if the Provincial requests it with the consent of his Council 2. The Superior General with the consent of his Council having heard the opinion of the Provincial Government

Erection, transfer or suppression of the novitiate	can. 647 § 1; CC 77	Superior General with the consent of the Council
Appointment of local superior, vicar, treasurer	can. 625; CC 112.3	Major Superior with the consent of the Council
Term of office of local superiors		Provincial statutes
Appointment and removal of the Novice Master and the provincial director	can. 651; CC 74	According to the norm of universal and proper law
Local superior for a third three year term	can. 624 § 3	Superior General with the consent of the Council
Approval of the budgets of the Major Community, houses and their activities, and additional budgets	CC 112.4	Major Superior with the consent of the Council
To dispose of the goods of the Congregation, to mortgage them, to contract debt not exceeding 70% of that authorized by the Holy See	Can. 638.2; Statute 107.1	Major Superior with the consent of the Council
To dispose of the goods of the Congregation, to mortgage them, to contract debts if they exceed 75% of the sum authorized by the Holy See (in those cases foreseen for such)	Can. 638.2; Statute 107.3	Superior General with the consent of the Council
Cession of patrimony	can. 668 § 4	Superior General with the consent of the Council
Convocation of an extraordinary chapter	CC 108	Major Superior with the consent of the Council

Appendix 1: Model INTERROGATION OF SOMEONE SEEKING DISPENSATION FROM CELIBACY

Note: There is no official form for the interrogation, but the following has been used for some years. It is not necessary to answer all the questions, if there is nothing to say about some of them. However it is necessary that when writing the responses, they are preceded by the corresponding question. It is recommended not to give one word answers. They must be answers that show and explain in some way the situation and the answers given. It must be completed by the interested party at the request of the Instructor of the Cause.

Generalities

1. Please indicate your name, surname, place and date of birth and your home address.
2. What was the civil, financial and religious situation of your family? What was your home environment like? What education did you receive?
3. Where and when:
 - a. did you go to school as an adolescent?
 - b. did you enter the novitiate?
 - c. did you make first vows?
 - d. did you study philosophy?
 - e. did you do special studies?
 - f. did you do teacher training?
 - g. did you study theology?
 - h. were you ordained to the priesthood?
 - i. did you make the third probation?
 - j. did you do other specialized studies?
 - k. did you obtain academic degrees and what were they?
 - l. did you make final vows and what were they?

4. After ordination what offices and ministries did you exercise? Where and when?
5. Did you have you any serious physical or mental illness before entering the Congregation? During the years of formation? After ordination? Did you have appropriate treatment? What was the result? Is there anyone in your family who had the same kind of illness?
6. What is your juridical status, ecclesiastically as well as civilly?

Reasons for the petition

7. During adolescence, at home, in school and in general before entering the Congregation, was there something (physical, mental, religious etc) that upset your equilibrium and normal development as a person? Were indications of anything contrary to a priestly vocation?
8. Was your decision to enter the congregation mature, made freely, without excessive influence of your parents, family members or others?
9. Was your decision to take first vows mature, free, responsible, not superficial, emotional, passive etc?
10. During formation or before ordination, did you sometimes have serious doubts about your choice of the religious and priestly life?
11. During formation or before ordination, did your sense of dedication and religious observance weaken (in prayer, reception of the sacrament, community life, observance of the vows and the rule)?
12. When you began the study of theology, what ideas and opinions did you have concerning the priesthood, religious consecration, your responsibility? Were you well aware of the obligations inherent to the priesthood?

13. Before priestly ordination did you have serious shortcomings? As regards poverty, chastity and obedience? Psychological immaturity, especially affective immaturity? Difficulties concerning the teaching of the church or a crisis of faith?
14. During formation and before ordination did you have open and sincere dialogue with spiritual directors concerning your difficulties so that they were able to judge if you were really capable of embracing the life of celibacy?
15. Was there anything else during your years of formation that you believe might help in understanding the present difficulties?
16. Did you ever give serious consideration, either on your own initiative or on the Council of Superiors or others, to delaying priestly ordination or not going on to ordination?
17. When you signed the sworn declaration that you were receiving Orders with full knowledge and freedom, did you do it with complete liberty, responsibility, sincerity, not out of emotion, human respect, fear or influence of others?
18. Was your emotional formation sufficiently balanced with regard to celibacy? Were you fully aware of the scope and seriousness of the obligation of celibacy? Did you accept it freely?
19. Did you receive priestly ordination with its obligations freely and joyfully, as a positive act of perpetual consecration and not just passively as if it were simply a passage from one stage of formation to another?
20. Did you pronounce your final vows with the same sense of perpetual consecration?
21. What are the causes and circumstances that have led you to ask for a dispensation from priestly celibacy? Are you going through an emotional crisis? Has there been a lack of real adjustment to the sacred ministry? Do you have difficulties in community life? Do you experience frustrations and anxieties?

Do you have sensation of being lost or do you feel lonely? Are there moral problems involved?

22. What did you do to overcome your problems? How long have you been struggling against them?
23. From whom (superiors, spiritual directors, brothers in the community, doctors, others) have you sought Council concerning your difficulties? What did they counsel you to do?
24. Do you think that over the course of your religious and priestly life your superiors, spiritual directors and others were mistaken in their judgment of your vocation, in their guiding you, in counseling you? If so, why?
25. At present do you live outside of a religious house?
26. Have you given up the exercise of the priesthood? If so, when?
27. Is your intention to ask for a dispensation from celibacy really final? Do you think that it would be possible for you to reconsider the question with greater clarity and depth? Do you understand that the step you are taking now is irrevocable?
28. In making your decision have you consulted or been treated by psychiatrists or psychologists? If so, who were they? What were the results?
29. Do you have a real possibility of honestly supporting yourself once you have passed to the lay state?
30. If the dispensation is given, do you intend to contract matrimony? Immediately? Have you set a date? When? With a woman who is canonically free? Was she a religious?
31. Is the fact that you are a priest known in the place where you live?
32. Are there people who can testify confidentially concerning your situation and the reasons put forward for obtaining the

dispensation? Could you give their names so that they could be questioned?

33. Have you contracted marriage civilly or religiously? When? With a Catholic woman? What is her juridical situation (civilly divorced, legitimately freed from the preceding marriage by a definitive sentence of the competent ecclesiastical tribunal), Was she single? Was she a religious? Do you have children? Why are you trying to sort out such a state of affairs?
34. Do you want to add anything to what you have already said?
35. Do you agree that the information you have given above be used, as necessary, in order to treat your case with the General Curia and the Holy See?

Place, Day, Month, and year

Firma del Peticionario

Firma del Instructor

Firma del Actuario

Appendix 2: Model for THE INTERROGATION OR ACCOUNT OF WITNESSES

In giving their testimony the witnesses should respond to the following questions. Before each response there should be included the corresponding question

1. Name and surname(s) of the witness. Religious name. Age.
2. Profession, occupation, home address.
3. Do you and the petitioner have a relationship of friendship or kinship?
4. Do you swear before God to tell the truth in answering the questions that will be asked of you?
5. How long have you known the petitioner? Could you say that you know him well?
6. Were you aware of the petitioner's family situation?
7. Do you know whether the petitioner entered religious life and the priesthood spontaneously and freely or was there violence or pressure?
8. Can you describe the talents and the personality of the petitioner?
9. Do you know whether the petitioner has suffered from any serious sickness, either physical or psychological?
10. Does the petitioner have a social disposition, outgoing towards others, or rather would he have notable difficulty in living with others both humanly and religiously?
11. Do you know whether the petitioner conducted himself correctly during the time of his formation and proceeded to commitment to the religious and priestly life with a good conscience and a peaceful spirit?

12. Was he respected by his Superiors, directors and fellow students?
13. Do you know whether he was open with his Superiors and spiritual directors?
14. Do you know whether he had serious difficulties with regard to his religious and priestly vocation?
15. If you knew him before he made religious vows and was ordained, do you think that he made his vows and received holy orders with sufficient human and spiritual maturity?
16. How did the petitioner conduct himself in the exercise of his priestly ministry? Did he seem to be happy, apostolically zealous, to be an integral part of the apostolic work of his community?
17. Do you know of any problems he had in obedience during the exercise of his ministry?
18. Do you know whether he had any difficulty emotionally?
19. Do you know whether he was seriously unfaithful in any way to the obligations he had accepted? Or whether he was a cause of surprise or scandal for the faithful by his way of acting?
20. Do you know if the petitioner admits or has admitted errors against the life of holiness or the nature of the priesthood or against sacred celibacy?
21. Do you know if when he had these difficulties, he had good advice or if he was warned?
22. Do you know if the petitioner has contracted marriage civilly or is living with a woman?
23. Do you know what the people thought of him in the places where he exercised the ministry and what they think of him now?

24. Do you believe that the petitioner's decision to leave the religious life and priesthood can be considered final and irrevocable and that it is based on serious motives?
25. Do you think that it would be appropriate and advisable, considering the good of the petitioner as well as the good of the Church, that the Supreme Pontiff grant the petitioner the dispensation from priestly celibacy and from the other obligations attached to sacred orders and the religious life?
26. Is there anything you want to add to what you have already said?
27. Do you have in your possession any letters or documents that could help to better understand the case?
28. Do you believe that the petitioner has told the truth with respect to the questions posed to him as part of the process for his dispensation from priestly celibacy?

Place, date, month year

Signature of the provincial

Signature of the witness

Signature of the notary

Appendix 3 Model FIRST CANONICAL WARNING

Letterhead

Dear (*complete name*)

In my letter of (*date*)I formally gave you a clear command under obedience namely to (*indicate clearly the content of the command*)

I sincerely regret that you have not heeded what I asked you to do nor do I find any justification for your conduct. This places on me the grave responsibility to remind you of the gravity of the posture you have taken, which is contrary to our Constitutions and the laws of the Church.

For that reason, in conformity with the prescriptions of Canon 697 § 2 of the Code of Canon Law and having heard the opinion of my Council, I am officially sending this first canonical warning, warning you that we will proceed to your dismissal from the Congregation if you continue in this attitude of disobedience.

Once more I give you the formal command in virtue of the vow of obedience that you professed freely, to (*here you repeat the command under obedience that was given previously*). You have fifteen days to do this.

I urge you strongly to sincerely consider before God the grave situation in which you have placed yourself and to no longer refuse to fulfill the obligations of religious life that you freely and publicly accepted.

You have the right and the duty to present to me personally or in writing any possible justification for your actions. You also have the right to address yourself directly to the Superior General, if you have proofs to present in your defense.

I assure you of my prayer that you might respond to the demands of your vocation with the help of the Lord's grace.

Given at (*place*) on (*date*)

Seal

*Signature of the Major Superior
above his name, surname and title*

Appendix 4: Model SECOND CANONICAL WARNING

Letterhead

Dear (*complete name*)

Fifteen days have passed since I sent you the first canonical warning and I note that you have not responded to the command to (*indicate clearly the content of the command*), which I gave you on (*date*)..... The arguments that you present in your defense (*if they were presented*) do not justify your attitude of non- acceptance of this command.

For that reason I must proceed, as I already indicated to you, in conformity with canon law and our own legislation.

Once again I give you the formal command to (*here repeat the command*)..... You have fifteen days to do this.

By this present letter I give you the second canonical warning, in keeping with canon 697 § 2, warning you that, if this new time period that I have indicated goes by without a positive response on your part, the following steps will be taken for your dismissal from the Congregation of the Sacred Hearts of Jesus and Mary.

You have the right and the duty to present to me personally or in writing any possible justification for your actions. You also have the right to address yourself directly to the Superior General, if you have proofs to present in your defense.

I ask the Lord to give you light and to help you with his grace.

Given at (*place*)..... on (*date*)

Seal

*Signature of the Major Superior
above his name, surname and title*

**Appendix 5: DECLARATION OF “IPSO FACTO” DISMISSAL
FROM THE CONGREGATION**

**DECLARATION OF “IPSO FACTO” DISMISSAL
FROM THE CONGREGATION**

The undersigned, Father Major Superior of (*name the major community*) with (vice) provincialate at (*place*) meeting in session of the (Vice) Provincial Government on (*date*)..... being present (*indicate the number*) Councilors.

1. Explained to the Councilors that Father..... entered into a civil marriage at (*place*) with (*name of spouse*) on (*date*) as is certified by documentation from the civil register (*or by testimony of*
2. And taking note of the evidence provided, proceeded to officially declare with his Council, that the religious (name of the party) perpetually professed, has committed the offense referred to in can. 694 §1, 2, and therefore, according to the provision of the same canon is dismissed “ipso facto” from the Congregation of the Sacred Hearts of Jesus and Mary.

Given in faith.

At (*place*), on (*date*)

Seal

Signatures of the Superior and Councilors present

**Appendix 6: Model of A LETTER TO NOTIFY OF
OBLIGATORY DISMISSAL FROM
THE CONGREGATION**

Letterhead

Dear Brother,

By this letter I want to inform you that even given your sincere repentance for past acts and your present behavior (*if such is the case*), I consider it my obligation to begin to take steps toward your dismissal from the Congregation in virtue of canon 695 § 1 for the offense of as foreseen in canon 1395 § 2.

From the facts that I have in my possession: (*here mention them.....*), duly presented and proved I am able to conclude that you committed this grave fault. I notify you because I must send Father General the documentation so that he can, in keeping with the law, issue the decree of dismissal according to canon 699.

You have the right to present facts and arguments you believe necessary in your defense within the next fifteen days.

I ask the Lord that he grant you light and comfort and this time. I also want to offer any help that I might give as your brother..

Sincerely in the Sacred Hearts,

At (*place*), on (*date*)

Seal

Signatures of the Superior and Councilors present