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PART V.

THE METHOD OF PROCEEDING IN ADMINISTRATIVE RECOURSE AND IN THE REMOVAL OR TRANSFER OF PASTORS

SECTION I.

RECOURSE AGAINST ADMINISTRATIVE DECREES (Cann. 1732 - 1739)

Can. 1732 What is established in the canons of this section concerning decrees must be applied to all singular administrative acts which are given in the external forum outside a trial excepting those which have been issued by the Roman Pontiff or an ecumenical council.

Can. 1733 §1. Whenever a person considers himself or herself aggrieved by a decree, it is particularly desirable that the person and the author of the decree avoid any contention and take care to seek an equitable solution by common counsel, possibly using the mediation and effort of wise persons to avoid or settle the controversy in a suitable way.

§2. The conference of bishops can determine that each diocese establish in a stable manner an office or council whose function is to seek and suggest equitable solutions according to the norms determined by the conference. If the conference has not ordered this, however, the bishop can establish a council or office of this kind.

§3. The office or council mentioned in §2 is especially to be of assistance when the revocation of a decree has been requested according to the norm of ⇒ can. 1734 and the time limits for making recourse have not elapsed. If recourse has been proposed against a decree, however, the superior who deals with the recourse is to urge the person making recourse and the author of the decree to seek a solution of this kind whenever he sees hope of a favorable outcome.

Can. 1734 §1. Before proposing recourse a person must seek the revocation or emendation of the decree in writing from its author. When this petition is proposed, by that very fact suspension of the execution of the decree is also understood to be requested.

§2. The petition must be made within the peremptory period of ten useful days from the legitimate notification of the decree.

§3. The norms of §§1 and 2 are not valid:

1/ for recourse proposed to a bishop against decrees issued by authorities subject to him;

2/ for recourse proposed against a decree which decides a hierarchical recourse unless the bishop gave the decision;

3/ for recourse proposed according to the norm of cann. ⇒ 57 and ⇒ 1735.

Can. 1735 If within thirty days after receiving the petition mentioned in ⇒ can. 1734 the author of the decree communicates a new decree by which he either emends the earlier one or decides that the petition must be rejected, the time limits for making recourse run from the notification of the new decree. If the author makes no decision within the thirty days, however, the time limits run from the thirtieth day.

Can. 1736 §1. In those matters in which hierarchical recourse suspends the execution of a decree, the petition mentioned in ⇒ can. 1734 also has the same effect.

§2. In other cases, if the author of the decree has not decreed the suspension of execution within ten days after receiving the petition mentioned in ⇒ can. 1734, an interim suspension can be sought from his hierarchical superior who can decree a suspension only for grave reasons and always cautiously so that the salvation of souls suffers no harm.

§3. If the execution of the decree has been suspended according to the norm of §2 and recourse is proposed afterwards, the person who must deal with the recourse according to the norm of ⇒ can. 1737, §3 is to decide whether the suspension must be confirmed or revoked.

§4. If no recourse is proposed against the decree within the established time limit, the interim suspension of the execution given according to the norm of §§1 or 2 ceases by that very fact.

Can. 1737 §1. A person who claims to have been aggrieved by a decree can make recourse for any just reason to the hierarchical superior of the one who issued the decree. The recourse can be proposed before the author of the decree who must transmit it immediately to the competent hierarchical superior.

§2. Recourse must be proposed within the peremptory time limit of fifteen useful days which in the cases mentioned in ⇒ can. 1734, §3 run from the day on which the decree was communicated; in other cases, however, they run according to the norm of ⇒ can. 1735.

§3. Nevertheless, even in cases in which recourse does not suspend the execution of the decree by the law itself and suspension has not been decreed according to the norm of ⇒ can. 1736, §2, the superior can order the execution to be suspended for a grave cause, yet cautiously so that the salvation of souls suffers no harm.

Can. 1738 The person making recourse always has the right to use an advocate or procurator, but useless delays are to be avoided; indeed, a legal representative is to be appointed ex officio if the person making recourse lacks one and the superior thinks it necessary. Nevertheless, the superior always can order the person making recourse to be present in order to be questioned.

Can. 1739 The superior who deals with the recourse, as the case warrants, is permitted not only to confirm the decree or declare it invalid but also to rescind or revoke it or, if it seems more expedient

to the superior, to emend, replace, or modify it.

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SECTION II.

THE PROCEDURE IN THE REMOVAL OR TRANSFER OF PASTORS (Cann. 1740 - 1752)

CHAPTER I.

THE MANNER OF PROCEEDING IN THE REMOVAL OF PASTORS

Can. 1740 When the ministry of any pastor becomes harmful or at least ineffective for any cause, even through no grave personal negligence, the diocesan bishop can remove him from the parish.

Can. 1741 The causes for which a pastor can be removed legitimately from his parish are especially the following:

1/ a manner of acting which brings grave detriment or disturbance to ecclesiastical communion;

2/ ineptitude or a permanent infirmity of mind or body which renders the pastor unable to fulfill his functions usefully;

3/ loss of a good reputation among upright and responsible parishioners or an aversion to the pastor which it appears will not cease in a brief time;

4/ grave neglect or violation of parochial duties which persists after a warning;

5/ poor administration of temporal affairs with grave damage to the Church whenever another remedy to this harm cannot be found.

Can. 1742 §1. If the instruction which was carried out has established the existence of one of the causes mentioned in [⇒](#) can. 1740, the bishop is to discuss the matter with two pastors selected from the group established for this purpose in a stable manner by the presbyteral council at the proposal of the bishop. If the bishop then judges that removal must take place, he paternally is to persuade the pastor to resign within fifteen days, after having explained, for validity, the cause and arguments for the removal.

§2. The prescript of ⇒ can. 682, §2 is to be observed for pastors who are members of a religious institute or a society of apostolic life.

Can. 1743 A pastor can submit a resignation not only purely and simply but also conditionally, provided that the bishop can accept it legitimately and actually does accept it.

Can. 1744 §1. If the pastor has not responded within the prescribed days, the bishop is to repeat the invitation and extend the useful time to respond.

§2. If the bishop establishes that the pastor received the second invitation but did not respond even though not prevented by any impediment, or if the pastor refuses to resign without giving any reasons, the bishop is to issue a decree of removal.

Can. 1745 If the pastor opposes the cause given and its reasons and alleges reasons which seem insufficient to the bishop, the bishop, in order to act validly, is:

1/ to invite the pastor to organize his objections in a written report after he has inspected the acts, and offer any proofs he has to the contrary;

2/ when any necessary instruction is completed, to consider the matter together with the same pastors mentioned in ⇒ can. 1742, §1, unless others must be designated because those pastors are unavailable;

3/ finally, to establish whether the pastor must be removed or not and promptly to issue a decree on the matter.

Can. 1746 After the pastor has been removed, the bishop is to make provision either for an assignment to some other office, if he is suitable for this, or for a pension as the case warrants and circumstances permit.

Can. 1747 §1. The removed pastor must refrain from exercising the function of pastor, vacate the rectory as soon as possible, and hand over everything belonging to the parish to the person to whom the bishop has entrusted the parish.

§2. If, however, the man is sick and cannot be transferred elsewhere from the rectory without inconvenience, the bishop is to leave him the use, even exclusive use, of the rectory while this necessity lasts.

§3. While recourse against a decree of removal is pending, the bishop cannot appoint a new pastor, but is to provide a parochial administrator in the meantime.

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