then integrate such information into the overall plan of organization at the diocesan level. If the diocese has no moderator of the curia, the chancellor should create a similar relationship with the vicar general overseeing diocesan administration.

ARTICLE 1: VICARS GENERAL AND EPISCOPAL VICARS
[cc. 475–481]

This article retains the traditional notion of the vicar general as the most important office of the diocesan curia and adds to it the concept of the episcopal vicar established by the Second Vatican Council (*CD* 23, 26, 27).

The vicar general is a diocesan figure which evolved during the last millennium. Some have suggested that the office was developed to replace that of the archdeacon since the latter began to cause considerable dissension, particularly in the twelfth and thirteenth centuries. Others conclude that the vicar was used solely to supplement the work of archdeacons, many of whom were unable or neglected to fulfill all their responsibilities. During the Middle Ages various titles identified a figure similar to today's vicar general: *procurator, provisor, adiutor,* and *episcopalis officii vices.* For example, a text in the *Decretals* of Gregory IX refers to *vicarii et procuratores generales.* At the start, such authorities governed the diocese only when the bishop was absent from his see or when the see was vacant. By the fourteenth century, however, the vicar was recognized as possessing comprehensive jurisdiction within the diocese even when the bishop was present. His jurisdiction extended *tam in spiritualibus quam in temporalibus,* to all aspects of life in the diocese, including at times authority over the officialis. In certain cases, the same cleric served as both vicar and officialis. The 1917 Code implemented the directives of Vatican I by stabilizing the office of vicar general as the alter ego of the diocesan bishop, prohibiting the use of the title for honorary purposes, limiting the number of vicars general, and defining their jurisdiction.[30] The 1983 Code retains substantially the same description and strengthens it by explicitating the vicar's governance as executive in nature and requiring that every diocese have at least one vicar general.

The same article introduces into the Code the figure of the episcopal vicar who is likened in all things to the vicar general but who functions only in regard to "a certain part of the diocese, or for a determined type of activity, or for the faithful of a determined rite" (*CD* 27). The conciliar imperative to establish this office was implemented in *Ecclesiae sanctae* I,14, whose norms are here incorporated into the Code.

The Definition of Vicars General and Episcopal Vicars

Canon 475 — **§1. A vicar general is to be appointed in each diocese by the diocesan bishop; he is to assist the diocesan bishop in the governance of the entire diocese and is endowed with ordinary power according to the following canons.**

§2. As a general rule only one vicar general is to be appointed unless the size of the diocese, the number of its inhabitants or other pastoral reasons warrant otherwise.

The revision makes the office of vicar general *mandatory* for every diocese (§1). The 1917 Code (*CIC* 366, §1) had *urged* the appointment of a vicar general "whenever the proper governance of the diocese" required it. This qualifying phrase (now used in c. 476 regarding episcopal vicars) left the decision to establish the office of vicar general in a particular diocese to the bishop. The deletion of the phrase makes the office an unqualified requirement. This was the explicit intention of the Code Commission based on its reading of Vatican II.[31]

The use of the phrase "as a general rule" in the second paragraph permits the diocesan bishop to appoint more than one vicar general. The 1917 Code mentioned only two reasons to justify more than one vicar general: diversity of rites and the size of the diocese (*CIC* 366, §2). The revised Code adds the notion of a large number of inhabitants and "other pastoral reasons." In dioceses with an extensive Catholic population, it may be pastorally helpful to the diocesan bishop to appoint more than one vicar general, particularly if the former has been assigned auxiliary bishops to assist in the overall office of pastoral care (cf. c. 406). In many cases, however, the possibility of appointing episcopal vicars and the very concept of the vicar general as a director of central administration should dissuade the diocesan bishop from multiplying many vicars general. Pastoral effectiveness may very well suffer and ecclesial unity be impaired if too many persons exercise executive governance over the entire diocese. In such cases, the office designed to facilitate and unify diocesan administration would have the very opposite effect. The practice of naming honorary vicars general is also alien to the Code. It diminishes the important role of the vicar general as one with ordinary universal executive power since those with the title never in fact exercise such authority.

Canon 476 — **As often as the correct goverance of the diocese requires it the diocesan bishop can**

[30] Cf. T.D. Dougherty, *The Vicar General of the Episcopal Ordinary, CanLawStud* 447 (Washington, D.C.: Catholic University, 1966).

[31] *Comm* 5 (1973), 226 and 13 (1981), 118.

also appoint one or several episcopal vicars, who possess the same ordinary power which the universal law gives to the vicar general according to the following canons either in a determined section of the diocese or in a certain type of business or over the faithful of a determined rite or over certain groups of persons.

Episcopal vicars are *optional.* The qualifying phrase from canon 366 of the 1917 Code, which had applied to the vicar general, is now used as a rationale for episcopal vicars: "as often as the correct governance of the diocese requires it." Even then, the revised Code states not that a bishop *must* appoint an episcopal vicar when the need is present but that he *can* do so.

The episcopal vicar is equated to the vicar general in all ways except the extent of his responsibilities and authority. While the vicar general possesses executive authority in all aspects of diocesan administration not reserved to the bishop himself, the episcopal vicar enjoys ordinary executive authority solely in regard to a specific type of activity or a particular group of persons identified by some objective criterion such as territory, rite, or ethnic background. It is important to clarify the special field of endeavor proper to the episcopal vicar since there should be no doubt about the area in which he exercises ordinary power of executive governance.[32] This determination should be included in the document constituting the office of the episcopal vicar or in the letter of appointment itself. The same document should also indicate explicitly any matters reserved to the diocesan bishop or the vicar general and any additional mandates to act which would not normally be considered part of the episcopal vicar's ordinary power of governance.

The Appointment of a Vicar

Canon 477 — **§1. With due regard for the prescription of can. 406, the diocesan bishop freely appoints and freely removes a vicar general and an episcopal vicar; an episcopal vicar who is not an auxiliary bishop is to be appointed only for a time to be determined in the act of appointment.**

§2. When a vicar general is absent or legitimately impeded the diocesan bishop can appoint another to take his place; the same norm applies to an episcopal vicar.

Vicars general and episcopal vicars are appointed at the discretion of the diocesan bishop. They do not have even the qualified independence of the officialis who may be removed only for a "legitimate and serious cause" (c. 1422). One who serves as the alter ego of the bishop must have his complete and continued confidence. Total dependence on the diocesan bishop, while making the office somewhat precarious in nature, also reinforces its authority. When one can so easily be removed, one's continued presence and action are all the more authoritative. (The same rule can sometimes be seen in the business world where the authority and power of executives are often matched by lack of job security.) While the diocesan bishop has complete discretion in the appointing and removing of priests as vicars, the same does not hold true in regard to auxiliary bishops. By law coadjutors and auxiliaries with special papal faculties must be appointed as vicars general and all other auxiliaries must be appointed as episcopal vicars if not vicars general (c. 406).

A priest who is appointed an episcopal vicar may not be given a permanent or indefinite appointment. He must receive a term of office although there is no prohibition against repeatedly renewing such a term. A priest can be appointed as vicar general indefinitely or for a limited term. Because of canon 406 (mentioned above), an auxiliary bishop is appointed as vicar general or episcopal vicar indefinitely. In all cases the juridic act constituting the office in the diocese and/or the letter of appointment should state whether the office is assigned indefinitely or for a specific period of time and whether the stated term is renewable. The appointment must be in writing, signed by the diocesan bishop, and notarized (cc. 156, 474).

The second paragraph of this canon, which restates substantially canon 366, §3 of the 1917 Code, provides for the occasion when the vicar general is away from the diocese. It is usually most helpful in situations in which both the diocesan bishop and the vicar general are absent at the same time, leaving no one in the diocese with ordinary universal power of executive governance. In a sense, the norm is superfluous, considering the complete discretion given to the diocesan bishop about both vicars general and episcopal vicars in canons 475–477. It is important to note that, although such an appointment may be for only a short time—even a few days—the conditions and formalities of the universal law for these offices must be observed (e.g., minimum age, pastoral qualifications, appointment in writing).

The Qualifications of a Vicar

Canon 478 — **§1. A vicar general and an episcopal vicar are to be priests, not less than thirty years of age, holding a doctorate or licentiate in canon law or in theology or at least being truly expert in these disciplines, as well as being recommended by reason of their sound doctrine, integrity, prudence, and experience in handling matters.**

[32] "In appointing an episcopal vicar, the bishop will be concerned to define accurately the area of his authority lest the jurisdiction of several persons should overlap or become doubtful." *Directory,* no. 202.

§2. The role of vicar general and episcopal vicar cannot be assumed by the same person who functions as canon penitentiary; nor is this office to be entrusted to persons who are related by blood to the bishop up to the fourth degree.

The qualifications for both vicars general and episcopal vicars are identical; they repeat almost *verbatim* those found in the 1917 Code (*CIC* 367). The most fundamental requirement is that of priesthood. For the validity of the appointment the candidate must be a validly ordained priest or bishop. This condition is necessary because of the vicar's responsibility to exercise complete power of executive governance, including those acts for which the priestly character is required (cc. 129, §1; 150). The canon, however, does not limit candidates to *diocesan* priests. The 1917 Code required that the vicar general be a priest from the diocesan clergy even though incardinated in another diocese. A religious priest could be assigned as vicar only if the diocese itself had been committed to a particular religious community (*CIC* 367). The revised Code permits the diocesan bishop to appoint any priest or bishop to the post although the heightened emphasis given to the bishop's own presbyterate would suggest that the candidate should normally be selected from the clergy already serving the diocese, whether diocesan or religious.

Vicars must be thirty years old, an age requirement raised by the 1917 Code from that of twenty-five established by the Council of Trent. They must also be learned in the ecclesiastical sciences and possess those personal qualities which such a position of authority demands. In regard to academic qualifications, the canon retains the "equivalency clause" of canon 367, §1 of the 1917 Code ("or at least being truly expert"), similar to the norm on the bishop (c. 378, §1, 5°) and unlike the stricter qualifications for the officialis (c. 1420, §4) and the seminary professor (c. 253, §1).

The second paragraph of the canon retains two traditional disqualifications: the mixture of the fora and consanguinity. The exclusion of the canon penitentiary arises from the incompatibility of the two offices, a prohibition based on the general principle of canon 152. Since one office deals totally with the internal forum and the other with the external forum, insoluble conflicts would inevitably occur.

Close relatives of the diocesan bishop are excluded from the office to avoid any appearance of nepotism. Actually, the revised Code expands and strengthens the disqualification. The 1917 Code restricted the prohibition to those related to the bishop in the second grade mixed with the first (uncle-nephew) (*CIC* 367, §3). Using the Roman method of computation (c. 108), the revised Code prohibits relatives of the fourth grade, which would include first cousins or granduncle-grandnephew. On the other hand, the revised text omits the word "especially" found in its predecessor (*CIC* 367, §3) which had implied that no blood relatives should be appointed as vicars without a special reason even if they were not within the grades specified by law. The present norm makes no such statement or implication of disqualification for anyone related more distantly than the fourth grade.

Finally, the revised Code omits the former prohibition (*CIC* 367, §3) against a pastor or anyone else exercising an office of pastoral care. The office of pastor and vicar are therefore recognized as essentially compatible although in practice the diocesan bishop must decide whether the responsibilities of the one office may seriously hamper the fulfillment of the responsibilities of the other. While a pastor might be able to serve effectively as the episcopal vicar of a local region without neglecting his parish duties, it seems unlikely—except in smaller dioceses—that he could function well as both a full-time pastor and a vicar general.[33]

The Vicar's Authority

Canon 479 — **§1. In virtue of his office the vicar general possesses that executive power in the entire diocese which belongs to the diocesan bishop in law, that is, he possesses the power to place all administrative acts with the exception of those which the bishop has reserved to himself or which in law require the special mandate of the bishop.**

§2. The episcopal vicar possesses by the law itself the same power mentioned in §1 but only over that determined section of territory, that type of business, or those faithful of a determined rite or group for which he was appointed, with the exception of those cases which the bishop has reserved to himself or to the vicar general or which in law require the special mandate of the bishop.

§3. Within the limits of their competency the vicar general and episcopal vicar also possess the habitual faculties granted to the bishop by the Apostolic See as well as the power to execute rescripts, unless other provisions have been expressly made or unless the diocesan bishop has been chosen to act because of some personal qualification.

The power of the vicar general is ordinary since it is by universal law attached to his office; it is vicarious since he exercises it on behalf of the diocesan bishop (who possesses ordinary and *proper* power of governance) (c. 131). While the vicar general is empowered to govern throughout the entire

[33]Cf. *Comm* 13 (1981), 119. While two *full-time* offices may not be compatible, all priests in the curia are not only permitted but encouraged by the *Directory* "to exercise some ministry for the care of souls, lest the curia become a merely administrative and juridical staff—which certainly will happen if the officials have almost no experience or understanding of pastoral work or of the needs of the faithful and of their spiritual life" (no. 200).

diocese, he does not have complete power of governance since he is limited to the executive area. He is not a legislator nor can legislative power be delegated to him by the diocesan bishop. Thus, he has no authority to pass laws or even general decrees, which are similar to laws (c. 30). He may, however, issue general executory decrees which determine ways in which laws are to be applied and their observance promoted (c. 31). The vicar general is not authorized to exercise judicial power; such power is reserved to the diocesan bishop and his officialis (judicial vicar). The officialis constitutes one tribunal with the diocesan bishop and he must be completely distinct from the vicar general (c. 1420, §1). In exercising ordinary executive power of governance the vicar general is bound by the general norms found in canons 136–144, which should be carefully studied by him upon acceptance of his office. He should note in particular the rules concerning those subject to him (c. 136), his right to delegate even "ad universitatem casuum" (c. 137), and his right to interpret his executive power broadly (c. 138).[34]

While the vicar general's executive power is considerable, it is not as extensive as that of the diocesan bishop since the latter may reserve certain administrative acts to himself or the law itself may prohibit the vicar general from acting in a particular matter without a special episcopal mandate. In the 1917 Code the requirement of a special mandate by universal law caused some confusion. Twenty-three canons explicitly called for a special mandate to enable the vicar general to act. Other canons, however, though not explicitly requiring a special mandate, dealt with serious matters more appropriately reserved to the bishop of the diocese.[35] This led commentators to conclude that the explicit references to a special mandate in the 1917 Code were not all-inclusive and represented only a demonstrative list. Debate ensued on what the vicar general could or could not do on the basis of ordinary power. The revised Code seeks to dispel this confusion by a stricter use of vocabulary. Although the diocesan bishop and the vicar general are both "ordinaries of the place," any canon which uses the words "diocesan bishop" applies *only* (*dumtaxat*) to the diocesan bishop and not to the vicar general or episcopal vicar unless the vicar has received a special mandate to act (c. 134, §3). If a canon uses the phrase "ordinary of the place," the vicar general is authorized to act even without a special mandate. An example of this distinction can be seen in canon 87: the *diocesan bishop* can dispense from all universal disciplinary laws which are not reserved to the Apostolic See (§1); *every ordinary* (both the diocesan bishop and the vicar general) can dispense from the same laws as well as those reserved to the Apostolic See (except celibacy) when recourse to Rome is difficult and grave harm would result from the delay (§2). In normal circumstances (no difficulty of recourse or grave harm), the vicar general can dispense only from diocesan laws and those passed by a provincial or regional council or by the conference of bishops (c. 88), not from universal disciplinary laws. If the diocesan bishop wants the vicar general to be able to dispense from universal disciplinary laws under normal circumstances, he must grant him a special mandate to do so.[36]

The episcopal vicar has the same authority as the vicar general except for the more restrictively determined scope of his jurisdiction (by territory, activity, or group of persons). He is an ordinary of the place (c. 134, §1) and needs a special mandate if the universal law uses the term "diocesan bishop." One other difference between the vicar general and the episcopal vicar is the fact that the diocesan bishop can limit the episcopal vicar's power of governance by reserving some acts not only to himself but to the vicar general while the latter's power can be limited by the diocesan bishop's reservation of such acts to himself alone, not to someone else.

Similar to canons 66 and 368 of the 1917 Code, the third paragraph of this canon states that, in general, vicars receive all faculties habitually conceded to the diocesan bishop and may execute all apostolic rescripts unless a particular rescript was expressly assigned to the diocesan bishop because of his personal qualifications ("industria personae"). It should be noted that canon 134 applies only to the Code of Canon Law and does not affect subsequent documents granting such habitual faculties. If habitual faculties are conceded to the "diocesan bishop," they are nonetheless received by the vicars as well. If a Roman document wishes to restrict a particular faculty to diocesan bishops alone, it must explicitly state this fact (e.g., by a phrase such as

[34]The use of the term "executive" clarifies *CIC* 368, §1 which simply stated the vicar general's universal jurisdiction "in spiritualibus ac temporalibus, quae ad Episcopum iure ordinario pertinet."

[35]One example is the readmission to the clerical state of one who had returned to the lay state after receiving minor orders (*CIC* 212) (Dougherty, 63).

[36]The change in vocabulary will dispel some confusion although cases of doubt will remain. Some canons use different phrases such as *Episcopus* (c. 479, §§2–3), *auctoritas competens ecclesiastica* (c. 812), *Episcopus loci* (c. 763). In fact, the change in vocabulary did not provide the vicar general with many more faculties. Of the twenty-three norms explicitly calling for a special mandate for the vicar general in the 1917 Code, eleven use the phrase "diocesan bishop" in the 1983 Code (thus still requiring a special mandate for the vicar general), nine were completely abrogated or the institute gradually suppressed (e.g., benefices), and only three retained the term "ordinary of the place" (permission for a secret marriage in c. 1130 [*CIC* 1104]; permission to establish a public oratory in c. 1223 [*CIC* 1191]; the remission of penalties in the external forum in c. 1355 [*CIC* 2314, §2]).

exclusis vicariis generalibus et episcopalibus); otherwise, the norm found in this third paragraph will be operative and no special mandate will be needed for the vicars to exercise the faculty.

Finally, it should be noted that, although the canons, by using the phrase "diocesan bishop," require a special mandate for the vicars to act, the diocesan bishop can grant such a mandate in his letter of appointment without specifying every canon to which it applies. He can grant the mandate "for all matters in which it is required by universal law" and then reserve any particular matter to himself if he so wishes.

Canon 480 — **The vicar general and the episcopal vicar must report to the diocesan bishop on the principal matters which are to be treated and which have been treated, and they are never to act contrary to his will and mind.**

Vicars have considerable authority, but it must be understood in light of their relationship to the diocesan bishop. This norm is quite similar to canon 369 of the 1917 Code and is based on the need for close coordination between the diocesan bishop and his vicars. Vicars share in the bishop's responsibility (*sollicitudo*), but they neither "multiply" the diocesan bishop nor participate with him in some sort of collegial diocesan governance. They are directly responsible to him and must keep him completely informed about their actions on serious matters. If the diocesan bishop has already denied a favor, no vicar—whether informed of the denial or not—can grant the favor validly (c. 65, §3).

The Cessation of the Vicar's Office

Canon 481 — **§1. The power of a vicar general or of an episcopal vicar ceases when the time of their mandate has expired, when they resign and with due regard for cann. 406 and 409, when they are informed of their removal by the diocesan bishop and when the episcopal see is vacant.**

§2. Unless they possess the episcopal dignity the power of the vicar general and of the episcopal vicar is suspended with the suspension from office of the diocesan bishop.

The canon repeats substantially canon 371 of the former Code, listing several ways in which the vicars may lose the power of governance attached to their office. The 1917 Code did not conceive of appointment to the office of vicar for a limited term. The revised Code, therefore, adds to the former text another occasion on which a vicar's power ceases: when his term of office expires (§1). The word "mandate" may apply to his appointment to the office itself or to any special faculties attached temporarily to his office. In the former case, the expiration of the term causes the vicar to lose the office itself; in the latter case, only the special faculties cease. Even though the vicar's term lapses on a certain date, the loss of the office does not take effect juridically until this fact is stated to him in writing by the diocesan bishop (c. 186).

Vicars may resign from office voluntarily. The vicar should have a just reason for resigning and, for validity, must inform the diocesan bishop about the resignation in writing or before two witnesses. The resignation does not take effect until the diocesan bishop is duly informed (cc. 187, 189). The resignation does not require acceptance by the diocesan bishop in order to take effect.

A priest can be freely removed from the office of vicar by the diocesan bishop provided that natural and canonical equity is observed.[37] The removal requires only a just reason (c. 193, §3). No particular procedure is required other than informing the vicar in writing. The priest does not lose the office until he receives the written decree of removal, signed by the diocesan bishop and properly notarized (cc. 193, §4; 474). If the episcopal see becomes vacant, the priest serving as a vicar automatically loses his office. Without a diocesan bishop there can be no alter ego. His powers do not cease, however, until he is morally certain (not necessarily through a written instrument) that the diocesan bishop has died or that the pope has accepted the bishop's resignation, transferred him to another office, or removed him from the office of diocesan bishop (cc. 416–417).

An auxiliary bishop can be removed from the office of vicar general, but the explicit reference to canon 406, §1 suggests that he must at least be appointed as an episcopal vicar. A coadjutor bishop or auxiliary with special papal faculties can be removed from the office of vicar general only for grave reasons (c. 193, §1). The same holds for the removal of any auxiliary bishop from the office of episcopal vicar. When the episcopal see becomes vacant for any reason, auxiliary bishops lose the office of vicar general or episcopal vicar but retain all their powers of governance attached to the office, including any special mandates granted by the diocesan bishop; they exercise these powers and faculties under the authority of the diocesan administrator until the succeeding bishop takes possession of the episcopal see (c. 409). As soon as the auxiliary bishop is certain that this has occurred, he loses the powers and faculties which he originally received as vicar general or episcopal vicar; he must be reinstated to his office by the new diocesan bishop if he is to continue to exercise such responsibilities (cf. cc. 406, 409).

[37] Cf. the response to Cardinal König on this point concerning c. 189 of the 1980 schema in *Rel.* 45.