

THE GOVERNANCE OF PROVINCES

Meeting of newly-elected Provincial Ministers with the General & Definitors – Rome, 19-24 January, 2004

The spirit of service

Replying to a questionnaire sent by the Commission for the revision of Chapter 8 of the Constitutions, one group of brothers complained that in the entire chapter dealing with the governance of a fraternity not a single reference to the bible or the writings of St Francis was to be found. It is true that chapter 8 – with the exception of the first article (n.109) – is very sparse both in language and content and is juridical in tone. This makes it all the more important that each brother – whether in leadership or not – should not lose sight of the spiritual background of the dry, juridical norms. Only thus can we prevent *animation* from degenerating into mere *administration*.

The relevant writings of our Father Francis – obviously after and alongside the gospel – should be required reading on a regular basis for every Provincial Minister. They are an excellent school where a Minister learns how to deal with his brothers. This can be shown by a few quotations, without the need for extensive commentary:

“They (the Provincial Ministers) must be careful not to be angry or disturbed at the sin of another, for anger and disturbance impede charity in themselves and in others”. (Rb 7,3)

“Let the brothers who are the ministers and servants of the others visit and admonish their brothers and humbly and charitably correct them, not commanding them anything that is against their soul and our rule”. (Rb 10,1)

“Let the ministers, moreover, receive them (i.e. the brothers unable to observe the Rule spiritually) charitably and kindly and have such familiarity with them that these same brothers may speak and deal with them as masters with their servants, for so it must be, that the Ministers are the servants of all the brothers” (Rb 10,5-6).

“Let those brothers who wish to go among the Saracens or other non-believers ask permission to go from their Provincial ministers. The ministers, however, may not grant permission except to those whom they see fit to be sent” (Rb 12, 1-2).

Alongside these and other sayings of the Rule, by far the most important are the Letter to a Minister and the fourth Admonition (“*Let no-one make being over others his own*”) as a connecting thread running through every aspect of the animation of a fraternity. Only when this spirituality is owned do the often sparsely phrased structural norms breathe the right spirit. It is clear from the instructions of our holy Father that the Minister has authority, but he must always and everywhere use it in a spirit of humble service, for the up-building of the fraternity and the good of the individual brother. Even according to the writings of St Francis this does not mean doing what each brother wants, but carefully and humbly discerning what the will of God is in a concrete situation, and therefore what is the right thing to do. This can also mean that sometimes decisions can be painful. Francis himself becomes very forceful when he sees that something essential to his Order of lesser brothers is in danger: for example, the question of poverty, chastity and obedience, and also faithfulness to reciting the office. “And let the minister be bound through obedience to send him with such brothers who would guard him as a prisoner until they deliver him to the Lord of Ostia, who is the Lord, the Protector and the Corrector of this fraternity”. (*Test.* 33).

The Constitutions, in three short paragraphs in n° 109, describe the theological-spiritual context in which Superiors in our Order must exercise their service. First, the text emphasises the guidance of the Holy Spirit, under which forms us into “an integral part of the Mystical Body of Christ”. In this way we are duty bound to use our gifts to build up the Church in love. Every brother has his gifts to contribute, to build up the Church and the fraternity and at the same time to foster this same mission in the other brothers. Then the Constitutions determine that “Chapters and ministers perform the function of binding the members together and, in a spirit of service, exercise the offices and duties received from God through the ministry of the Church” (109,3).

What does this mean concretely in law and in the practice of our Order? In this talk I would like to go into a number of topics that have some practical importance, without claiming to be exhaustive.

The Minister and his Council

It is an ancient tradition with Orders – not just the Friars Minor – that superiors do not rule alone in an unrestricted way, but that *in many of his decisions they are bound to have the consent, or at least the counsel, of others*: of the Chapter, as the highest authority in the Province (124,1) and – above all – of the definitory. It goes without saying that every Superior has to act and decide lawfully – which means according to the Rule, the Constitutions and church law in general. In the wake of Vatican II and the renewal of the Constitutions there were not infrequently views and practices that attempted to bind the superior's action into a democratic process, to such an extent that his inalienable responsibility was obscured. The superior could hide behind his Council in such a way that subjects were in practice related to a collegial authority rather than to a personal Minister. In many Provincial letters even today you can find the well-intentioned but not unproblematic formula “the Definitory / provincial administration has decided”, etc. Canon law and our Constitutions have removed any doubt there might have been in the matter: the superior of a religious community bears personal responsibility and decision-making authority which no-one may take away from him, but which at the same time he may not exercise without restriction.

I can still remember the revision of the Constitutions in 1982. In the revision of the text, careful attention was paid to ensuring that all formulations that gave rise to certain doubts were stated more precisely. Texts that mentioned the general or provincial Minister and his respective definitory were tightened as follows: “The general/provincial Minister *with the consent* of his definitory”, or “The general/provincial minister *having consulted* the definitory”. In fact, canonically speaking there are very few collegial acts in the strict sense of the word, where the provincial minister acts with the definitory on an equal footing as a member of a college. One of these few cases is for example the election of the provincial vicar after a vacancy and the corresponding appointment of a definitor by the General and his definitory. In this case the text of the Constitutions is equally clear: If the office of provincial vicar is vacant, the provincial minister and his definitory – viz. collegially – shall elect another provincial vicar from among the definitors, by secret ballot” (129,5).

Otherwise, it practically always concerns matters in which to act lawfully the Provincial needs either the consent of the definitory or else must at least have consulted them. Concretely this means that actions for which the Constitutions require the consent or the previous consultation of the definitory can only be validly made when this has in fact taken place. I will briefly list here the cases in which the Constitutions require consent/consultation (see annexe I):

What exactly is meant by “advice” or “consultation”? Where the agreement of the Council is required, the Provincial cannot act if he does not have the necessary majority of the Definitory. If he has received that majority, he still remains basically free to act or not to act. The Definitory - canonically speaking – can never compel a Provincial to a course of action; it can only prevent him from acting. In a case where advice (counsel) is required, the facts are as follows: the Provincial cannot validly perform the legal act in question without previously having consulted the definitory, but in acting he is not bound to that majority opinion. A concrete example: a Provincial can admit a candidate to the novitiate, even if a majority of his definitory is against it (but not to profession, for which he needs their consent).

What majority is required for consent? If we start with the current law of the Church and with the text of the Constitutions, there is only a majority in the Council when an absolute majority has been reached. In the (normal) case of our Provinces, this means that three out of four definitors must give their agreement. This can lead to stalled situations in Provinces where in the view of some members, the definitory was elected by factions at the Chapter, because for example two definitors always exercise a kind of obstruction. In such a case, can a Provincial give the casting vote? The doctrine and practice of the Congregation in these cases is negative (cf. AAS 771985 771,1), although the contrary opinion can be found in canonical doctrine in the case of Orders (including the Capuchins) that have had a contrary tradition in this matter from time immemorial.¹ In practice in any case, where a majority of the definitory cannot agree, it is better to let the matter rest for the time being, or else to place it on the agenda of a later meeting. In important matters, when it is clearly a case of sheer political obstruction, the Provincial can always have recourse to the General Minister.

And here we come to a further, very important point: collaboration of the Provincial with his definitory and of the definitors among themselves. Decisive and fundamental to the whole matter is mutual *trust*. And this depends to an overriding degree on the *discretion* of the definitors and the Provincial. In many cases the Provincial and definitory may be in office as a result of a struggle at the time of the elections. But once the battle is over, a faction that fought strongly in the Chapter on one side or the other now counts for nothing. The only thing that matters is the good of the Province and that one behaves accordingly. This presumes that in the definitory people can openly exchange views with one another. But it must never happen that a member of the Council or the Provincial himself divulges to an outsider who was in favour and who against a particular issue. Regarding communications to those outside the definitory, the rule of collegiality must apply. When a member of the definitory is defeated in a vote and he has conscientious reasons for disagreeing with a decision made by the Provincial, he obviously cannot openly lie and say he is happy with the decision, but neither can he oppose it. The wisest thing in such a case might be to answer any question by saying “Take your question to the Provincial direct, he’s the superior”.

For fruitful consultation of the Provincial with his definitory there must be a clear procedure in the *meetings*. The dates of definitory meetings should be planned well in advance (except for unforeseeable emergencies). We in the general definitory, for example, have fixed the dates of our meetings for the whole sexennium, and we would recommend the same in the Provinces for the triennium. It is always possible to add extra sessions when needed, or to cancel those that were planned if they are not necessary. Equally important is an *agenda*, which the Provincial sends to the definitors in good time. It is important that they have time to think about the matters to be dealt with, in advance of the meeting. Obviously, the Provincial will have a head start in terms of familiarity with practically every question, so that the definitors often feel at a disadvantage. This makes it all the more important that the Provincial should inform the definitors well during the meeting, certainly, but without steamrolling them into accepting his pre-fabricated decisions. Trust arises and grows when the definitors feel they are taken seriously even when their role is not that of equal members of a College sitting alongside the Provincial. – In our Order of lesser brothers

¹ According to Helmuth Pree, “norms occasionally found in Constitutions (approved by the Holy See) that gave voting/casting vote rights to a superior in cases where a college has the right to be consulted or to give or withhold its consent, are without validity. The same is true for centennial or immemorial customs in this regard, even where the Ordinary, according to CIC can. 5 § 1, decides to tolerate them, since *rationabilitas* is to be denied to such a custom, at least since the authentic interpretation quoted” (in MK, 127,3). B.Primetshofer takes a slightly milder approach: “It should be noted here that whenever there is in fact a centennial or immemorial custom, it is not automatically nullified by CIC/1983. It can be tolerated by the Ordinary when, in the circumstances of place and person, it cannot be set aside (c. 5 § 1, CIC)”. (B.Primetshofer, *Ordensrechtliche Vermögensverwaltung, in Handbuch des Vermögensrechts der katholischen Kirche unter besonderer Berücksichtigung der Verhältnisse in Bayern und Österreich*, ed. V.Hans Heimerl and Helmuth Pree, Regensburg 1993, 488). For a full treatment of the problem, see: D.Meier, *Die Generaloberin und ihr Rat*, in: OK 42 (2001) 323-331.

it ought to be self-evident that the meetings begin with a prayer. It is also recommended that a passage of scripture or from the writings of St Francis be read. By so doing we place our deliberations expressly under their authority. In particularly difficult situations it is also advisable to interrupt the meeting, not only for a drink but also for a moment of prayer. It often happens that completely new solutions to a problem appear after the break.

Sometimes questions arise about how much information a Provincial can and should bring to the defintory about a brother's personal matters, without harming *personal discretion*. There are no standard rules for this other than the good of the friar and of the Province. The following rule might be helpful: As Provincial, I give the Definitory as much information as is necessary for an objective judgement of a problem. *Concretely*: If a brother has acted against the vow of chastity, it is sufficient that the Provincial gives the most important basic information needed to make a decision. He need not give any details that would be more appropriate in a pornographic novel! Even the guilty brother has a right to his privacy. In this context it is good to bear in mind that the minutes of the meetings should be accessible only to the provincial minister and his definitory – and to the provincial secretary, where this is the practice. When writing the minutes it is advisable to observe a discreet prudence so as to protect the person, especially in countries where a court of law can have access to written records. At the end of the term of office the superiors or the council concerned should take care either to hand over the minutes to the Provincial or destroy/delete them from the computer.

Not a few items on the definitory's agenda have to do with *finance* and *economic questions*. It is extremely important for a Provincial – even if, and precisely because, his strengths lie in the domain of spiritual animation – to acquire a necessary basic competence also in those areas. The same goes for definitors. A Provincial may not off-load these matters entirely to his bursar, secretary or the relevant provincial commission. Commissions give advice so that the Provincial with his definitory may make good decisions. Bursars and secretaries are executive officials, who must do their job strictly under the authority of the Provincial. If the brothers get the impression – rightly or wrongly – that a bursar or a secretary is running the Province, this sours the atmosphere in the Province. It is therefore important that a Provincial, even if, and precisely because, he can count on experienced, competent personnel in the Curia, should not to all intents and purposes resign his office in their favour, even if he values their work and knows how to make the best use of it.

Visitations (see appendix II)

Among a Minister's arduous but beautiful tasks is to conduct the *pastoral visitation*. The term *canonical visitation* is no longer found in our Constitutions. Even in the general law of the Church it is found only once, and then outside of religious law. The function of the visitation, according to the Constitutions, is to "(contribute) much to the inspiration and renewal of our life and to unity among the brothers" (161,1). The visitation of each circumscription is to be conducted by the appropriate major superior "*twice during the three-year term*" (161,3). Vice-Provinces and custodies are to be visited at least once in the three years by their respective Provincial (cf. 161,3). It is important that these visitations prescribed by the Constitutions should have a certain formality, and that all fraternities and dwellings, as well as individual brothers, have an opportunity of speaking with the visitor. The Constitutions expressly say: "Visitors should engage in sincere discussion with the brothers, both individually and in community, about all those things, spiritual and temporal, which concern the preservation and development of the life of the brothers." (162,1). It is important, therefore, that not only trivialities should be discussed, but that the Minister avails of the *opportunity for animating* the brothers. It can be the opportunity to discover and foster the wealth of gifts that exist in a Provincial fraternity. He will also, if he is a good listener and has the trust of the brothers, be made aware of the needs and conflicts of the brothers. Often the visitation provides an opportunity to address irregular situations and to work towards a solution. It frequently takes courage to name problems openly without being afraid of what

may be intense reactions to begin with. In general, however, it is usually the case that brothers who are stalled in a particular situation are waiting for a “liberation” which happens in an open, sincere conversation.

The Constitutions expressly say that the visitorator must not “omit to inspect the houses” (162,1). When announcing the visit it is advisable to ask the local superiors to have certain documents ready when the visitorator arrives, e.g. the minutes of the local chapters, the house-chronicles, contracts with employees etc. In many houses there is much to recommend a very careful look at the house and its state of repair, the tidiness of the church and sacristy, the state of the library and cellar, the porter’s lodge, the archives, and finally especially the book-keeping. Where brothers have been working for years or even decades in the same job and the same place, abuses can creep in which can be gently or if necessary firmly discussed and removed on the occasion of a visitation. Other competent brothers can of course be delegated to visit special areas, such as the archives or the economy. It has been my experience that one look at the library and especially the reading room can say much more about the spiritual state of a community than all the words one hears from the brothers themselves. Where the rooms in a community are sufficiently soundproof, I would recommend from experience visits with individual brothers in their room or office, and not in the Provincial’s parlour. In this way the brother has the advantage of being “at home” during the conversation. At the same time, a friar’s room often says more than he can put into words!

It is important that after the visitation the brothers should receive some feedback, if possible on the spot, e.g. in the house Chapter, but also later in the form of a letter to individual communities and/or the Province as a whole. Where *changes* have been decided or indicated a deadline should be set for their implementation and after that time they should be *verified*. Otherwise, as one brother is supposed to have said as the visitorator was leaving: “O.K., relax and shut the door, and on we go, same as before!” On this point the Constitutions leave no room for doubt: “ Within the time set by the visitorator both the major superiors and the Guardians shall inform their immediate superior about what they have put into practice after the visitation, and how they have implemented the requirements of the Constitutions, of Provincial Chapters and of superiors” (163,2).

The prescription of the Constitutions (163,3) deserves special mention: “The major superiors shall send a *report* once during the three-year term to their respective superior *on the state of their own circumscription*”. Provincials and General Vice-provincials report to the General Minister, Vice-provincials and regular superiors to their respective Provincial. As far as reports to the General Minister are concerned, I would like to briefly indicate a few elements. We are grateful when the reports requested by the General Secretary “*in medietate triennii*” (half-way through the triennium) are sent at the proper time. They should follow the outline of questions and comment on the points mentioned honestly and succinctly. Since the General Minister and Definitory know the Constitutions and church documents as well as the Provincials do, long quotations and spiritual commentaries are superfluous. While they may often sound good, they do little to address the problems of a Province. It is also not necessary in each triennial report to spend pages describing the situation of Church and society if nothing essential has changed since the last report. An economic report is also part of the triennial report, if it is not made regularly according to the situation of the country concerned. It should provide a clear and concise overview of the real situation of the Province e.g. by showing a statement of income and expenditure of the previous financial years, and above all a balance sheet showing the Province’s investments. The Provincial’s economic report to the General Minister also requires the consent and signatures of the Definitors (which is not obligatory in the case of the triennial report as such).

The Manner of relating with brothers who leave the Order

In many provinces there are brothers who have serious problems living the form of life they have vowed to live. It is the pastoral responsibility of the minister to pay special attention to such brothers. Patience and love, allied with firmness and honesty, can help a brother back onto the right track or assist him to continue his life outside the Order. It is not good to let problem cases drag on unresolved for years, even decades: cases of a double life with regard to chastity; serious violation of the vow of poverty through autonomous and uncontrolled administration of money (e.g., bank accounts without the control of the superior); persistent refusal to obey and return to “common life”, etc. In such instances, maintaining the fiction that a brother can still continue to be a member of the Order without making any sincere efforts for conversion or change of attitude is often damaging, not only to the individual friar but to the entire fraternity. If all the pastoral efforts of the Provincial and others do not lead to a satisfactory conclusion and the brother concerned does not himself ask for dispensation, it is time for the minister to issue canonical warnings and start a process for dismissal (see “Modus procedendi”: *Analecta OFM Cap* 110[1994]403-424. Details about the canonical warning can be found in art. 64 and 65). In such a situation it is best is to seek the advice of our General Procurator’s office.

If a brother asks for dispensation or is dismissed from the Order following a canonical process the Order has a moral obligation to facilitate his reintegration into lay life. Equity requires that this include also financial assistance to the person concerned, unless he already made provision for himself in an unauthorised way while still a member of the Order. This can sometimes seriously burden the economy of province, depending on the legal requirements in a particular country. Since unfortunately it is realistic to presume that such cases will be more and more frequent, provinces should take the necessary precautions to avoid finding themselves in difficulty when these things happen.

I cannot enter into further detail about these often complex matters, but I would encourage you to combine your pastoral care with firmness and not allow irregular situations to go unpunished due to mistaken tolerance. Such action would not serve the person concerned and would undermine the trust of those who strive to be faithful and who follow our form of life daily in an exemplary manner.

Provincial Chapter

The Provincial also has the task of *preparing the Provincial Chapter*. There are two extremes to be avoided here. On the one hand, the Provincial should not, out of a wrongly understood respect for the sovereignty of the Chapter, dispense with all preparation, because then nothing could reasonably be done. On the other hand, there is the risk of conditioning the Chapter in such a way that the capitulars are merely bystanders. The Provincial and definitory have a clear task in this respect. The Constitutions state: “The Chapter itself, however, decides upon its agenda”. They therefore presuppose that a Chapter will not only elect superiors and then discuss a few legal matters, but will also deal with matters concerning the life and spirit of the Province. A separate preparatory commission for the Chapter is an advantage. It is also advisable before each Chapter to study the Chapter procedures carefully and if necessary make proposals in good time for their improvement.

After the Provincial Chapter: The Constitutions are brief and concise: “At the Provincial Chapter, or at a suitable time later, the Provincial Minister, with the consent of the Definitory, shall form the local fraternities” (140,1). The goal must always be *to build and maintain a network of viable communities* in the Province. This requires the courage to close houses when necessary, and to prepare the brothers in good time for taking such painful steps, so that they understand the issues involved. It is taken for granted today that an individual brother will normally be consulted personally before being reassigned, as the Constitutions say explicitly. This does not mean that the Provincial always and in every case needs the brother’s agreement, but in general it is better for the brother himself, and for the fraternity to which he is assigned, if he can express his agreement beforehand. Perhaps this

may be the place to point out that we Capuchins are familiar with itinerancy, which means that no brother is married to a particular job or place. Provincials play a key role in safeguarding this characteristic of ours. It is largely dependent on them (though not exclusively) whether the fraternities of a Province become a kind of personnel museum, where nothing can ever be changed. But we also know from experience that the vitality of a Province and its fraternities also depends on the mobility of the individual brothers. Care must be taken that it is not always the same sacrificial souls who have to move every two years, just because a few seasoned veterans intend to stay put.

The Guardians

Something similar applies to the *appointment of Guardians* and Vicars in the fraternities. For the appointment of Guardians, the Constitutions provide for “consultation of the brothers as far as possible” (140,1). This is not always easy in practice, because the fraternities themselves are often subject to great changes while the moves are taking place. One proven practice in some Provinces is to have a general consultation of the brothers about which brothers they see as basically suitable for the office of Guardian. In this way the Provincial and Definitory have a general picture that can be useful when it comes to the appointment of Guardians.

In very young and very old Provinces the appointment of Guardians is often a problem today. In the one case they lack the necessary personnel because the Province is still too young and lacking in stability; in the other, they lack the younger and livelier brothers needed for leadership posts, which also causes problems. In very elderly Provinces there is often the necessity, but also the danger, of leaving the same brothers in office beyond the time allowed by the Constitutions. In this way, the exception allowed by the Constitutions often becomes the norm in some Provinces: “They (i.e. the Guardians) may be appointed for a second or, in a case of obvious necessity, for a third three-year term, even in the same house” (140,3). But this usually only postpones the problem, as when Provincials, after a Guardian’s third term, will often apply for a dispensation so that he can remain in office for a fourth. Without playing down the “case of obvious necessity”, I would suggest it is often better to try one’s hand with a “second best” solution for the time being, rather than leave the same brothers in the same office forever. To do so usually takes its toll on the vitality of the fraternity and creates an unhealthy mentality in the Guardian concerned. Where a dispensation must be sought, the reasons for the request must be clearly stated.

Guardians occupy a key position in the life of the fraternities and therefore of the Province. If they do not carry forward the animation of the local fraternities and do not communicate convincingly the inspiration provided by the Provincial (and the General), much will remain stalled half-way. A Provincial will do well to meet with the Guardians regularly and hold workshops and study days in the course of the triennium to help them discharge their duties and to improve their competence. When certain difficult questions arising during a triennium it can be helpful to seek advice not just with the definitory but also with the Guardians, because they play an important role in helping the brothers to accept the decisions of the Provincial with his definitory. However, things should never reach the point where a Guardians’ conference accumulates prerogatives reserved to a Chapter!

There are Provinces that have an annual plan (sometimes a three-year plan) covering the principal areas. A Provincial would do well to draw up such a plan with his definitory in good time (involving the relevant commissions) and to inform the brothers about it. Such a plan might include the following topics: Fraternity /Province days; formation/recollection days; retreats; jubilee celebrations of brothers and fraternities; participation in congresses and study weeks outside the Province; sabbaticals, etc.

The House Chapter

Experience shows that the house Chapter in many Provinces of the world is a “cross” which the brothers unwillingly submit to as a duty. I don’t wish to go into this subject in detail here, but simply to point out something important for Provincials. In many places it has proved helpful to have a brother who is not a member of that fraternity lead the house Chapter. Sometimes it is good that the Provincial (or a definator) presides. A word of caution is in place here: the house Chapter should not be seen primarily as a tool of democratic government (if only because the Constitutions do not understand it in that sense). The house Chapter advises and makes suggestions; it is then the responsibility of the Guardian with his vicar and house council to take the relevant decisions and to implement them. The Provincial will be alert to ensure that the Guardians do in fact take on the suggestions and implement them in the interests of the fraternity, otherwise the house Chapter loses its force and dignity.

The Conference

The Ministers are always members of a Conference of the Order, of which the General Statutes were revised at the General Chapter of 1994. The Conference is an ideal forum in which to discuss shared problems among equals and – above all – to foster collaboration among circumscriptions of the same region. It is important that Provinces help each other also with personnel, where this can sensibly be done or where it is an absolute necessity. Such collaboration is applicable not only to the area of initial formation but to other vital concerns of each circumscription.

The Conference – depending on the situation – can be the place to deal with problems whose solutions are often beyond the capacity of an individual circumscription. Among these might be: the care of the friars who are sick, elderly or in need of other assistance; problems of insurance or health-care (in regions where the same laws apply); care and maintenance of libraries and cultural heritage; criteria for the building and restoration of our houses; alienation of property; work-contracts with our employees; contracts with Diocesan Bishops; procedure to be followed in accepting and leaving parishes and apostolic works.

The Vice-Provinces and Custodies

Missionary commitment is a special part of a Minister’s responsibility. He plays a crucial role in widening the horizon of a Province and its brothers to embrace their mission in the Church and in the world beyond the confines of the Province itself. Each Provincial has the duty of regularly visiting the Vice-Provinces and Custodies of his jurisdiction, and also of paying an occasional fraternal visit to Provinces founded or co-founded by his own and where friars from his Province are perhaps still working.

Special tasks and duties: To preside at Chapters and to confirm the superiors of a Vice-Province or Custody dependent on the Province.

The Provincial Curia and Provincial Commissions

The officials of the *Provincial Curia* and the members of the various provincial commissions have a particular practical significance in the conduct of a Provincial’s office. “The Provincial Minister...shall appoint from among the perpetually professed brothers a Provincial secretary and the officials necessary to deal with the business of the provincial curia and, if needed, to direct other special offices” (130,1). “The Provincial Secretary is subject to the Provincial Minister alone” (130,2), and only the Provincial can issue him with directives. Fraternal and discreet collaboration among the officials of the provincial curia is vital for the climate of the Province. It is therefore advisable to use the necessary caution when selecting people for these appointments: not only technical but also human

competence is needed. There are times when every Provincial, when he comes home tired and loaded with problems, needs someone he can talk with freely and who can lift his spirits in a human way. It is highly recommended that now and then the personnel of the Provincial Curia spend some free time together, so that their human contacts are not limited to the world of daily business. It is also recommended that the Provincial Curia, even if it has its own statute and a certain working autonomy, should be part of a normal fraternity for prayer and fraternal life. The establishment of a separate house just for the Provincial Curia is not recommended.

The Provincial, together with other officials of the provincial curia, is primarily responsible for good communication in the province. He should see to it that provincial news is sent out regularly and documents of common interest (Chapter minutes, etc.) are published. It is recommended that as part of his duty to animate the brothers the Provincial should from time to time write a circular letter dealing with the more important matters of our life in relation to the actual situation of the province.

The Constitutions recommend: “that commissions be established in each Province by the Provincial Minister with the consent of the Definitory to deal with special matters” (130,3). Certain *Commissions* are expressly mentioned by the Constitutions: “Each Province should have a formation council...” (24,6), and “It is recommended that each Province and Vice-Province set up one or more commissions on economic matters; their function is to give advice on the administration of goods and on the construction, maintenance and alienation of houses” (72,1). No. 72 § 2 should also be noted: “The Chapter establishes these commissions and determines their competence, but the members of these commissions, some of whom may be lay people, are appointed by the major superior with the consent of his council”. It goes without saying that the Chapter must take account of §1 in determining the competence or job description; in other words, commissions are advisory bodies, and may not decide matters on their own authority. Objectively speaking it is highly recommendable not to confuse advisory and executive functions.

In this paper I have tried to broach a number of topics that are important for Provincials in practice. Within the limits of the time available it was not possible to go into all the questions that arise, even from the viewpoint of the Constitutions. The ensuing discussion will give an opportunity to go into certain points more deeply, or to bring up new topics that have not been dealt with here.

Rome, November 3, 2002 / Br. Paul Hinder

Appendix I

The Provincial needs the **consent of the Definitory** in the following personal and business matters:

- to establish structures to foster vocations (16,4)
- to admit brothers to temporary and perpetual profession (19,2)
- to designate fraternities for all stages of formation (25,8)
- to permit the postulancy to be conducted elsewhere (25,8)
- to appoint those in charge of formation (26,3)
- to determine how brothers are to be gradually incorporated into the fraternity (27,2)
- to determine the time and manner of the novitiate (29,5)
- to determine the length of time and the manner of post-novitiate formation (30,2)
- to admit a brother to sacred orders (39,1)
- to establish centres for special formation (39,5)
- to issue norms for taking out insurance policies (66,1)
- to establish, purchase and alienate houses (69,1)
- to appoint bursars (71, 1.2)
- to issue the report for the General Minister on the economic state of the Province (71,5)
- to appoint members of the economic commission (72,2)
- to determine spending limits for local superiors (73,2)
- to issue norms for brothers working away from the friary (79,1)
- to issue special norms when the enclosure cannot be observed (88,5)
- to admit consecrated laymen to a fraternity with an appropriate contract (89,4)
- to issue norms for vacations and travel within the Province (91,3) in accordance with the new regulations issued by the General Minister, May 1st 2001 (Prot. N° 00246/01)
- to permit the canonical establishment of houses (112,1), observing the competence of the Provincial Chapter (124,3)
- to convoke a special (extraordinary) Provincial Chapter (124,3)
- to decide in cases of brothers prevented from attending the Provincial Chapter (125,2.3)
- to agree on the proposed agenda to be sent to capitulars in advance (127,2)
- to appoint the necessary officials for the Provincial Chapter (130,1)
- to establish the necessary Provincial commissions (130,3)
- to increase the number of councillors in a custody (135,2)
- to approve the statutes of a custody (139,3)
- to establish local fraternities and appoint guardians (140,1.3)
- to appoint the vicar of a local fraternity (141,1)
- to appoint a new local superior in the case of a vacancy occurring more than six months before a Chapter ((141,5)
- to co-ordinate the apostolic resources of the Province (146,3)
- to accept the care of parishes (151,2)
- to determine the manner of giving spiritual formation and instruction to the brothers (158,2)
- to accept missionary work proposed by the General Minister (178,2)
- to sign contracts with the ecclesiastical superiors in a custody (Mission) (178,2)
- to appoint a mission secretary and define his duties (178,3)

In the following (relatively few) cases, the Provincial needs the **advice (consultation)** of his Council in order to act lawfully:

- Admission to the novitiate (19,2)
- to determine at what times the fraternity is to discuss candidates (34,1)
- decisions concerning the use of vehicles (91,6)

Appendix II: Pastoral Visit

- It must be made "twice in a three-year term" (161.3).
- The respective provincial minister should visit the vice-provinces and the custodies at least once in a three-year term (161.4).
- Some formalities:
 - All the fraternities (cf. 161,3) and the individual friars must have an opportunity to dialogue with the visitor. Such an occasion helps to discover and at the same time promote the wealth of gifts of the provincial fraternity.
 - Timely notification to all the fraternities.
 - All the documents of the fraternity must be kept ready (minutes of the house chapter, house chronicles, contracts with the employees, list of books purchased, maintenance of the library etc.).
 - Architectural condition of the house.
 - Order in the church and sacristy, kitchen and cellar, library and reading room (attention to be paid to negligence if any!).
- Visit to the brothers, possibly in their rooms.
- Confront the irregular situations and suggest solutions for the same.
- Dialogue with the entire fraternity (house chapter).
- Eucharist with the entire fraternity.
- Letter to the province and/or to individual fraternities with the decisions and/or exhortations.
- Some time later: verify if the decisions and exhortations are put into practice.