



HIS EXCELLENCY
MOST REVEREND MICHAEL W. FISHER
By the Grace of God and the Authority of the Apostolic See
BISHOP OF BUFFALO

**DECREE OF THE MERGER OF ST. MARK PARISH, KENDALL AND ITS
TERRITORY INTO ST. MARY PARISH, HOLLEY**

THE FACTS

St. Mark Parish can be spoken of as a truly lay initiative. The Township of Kendall was traditionally cared for by the parish of St. Mary in Holley. In the 1970s there was a desire from the faithful living in Kendall to have their own church building. Until that point, the Pastor of St. Mary Parish was occasionally making the trip to Kendall to celebrate Mass in a rented Lutheran church. With the permission of Bishop Edward Head and the Pastor of St. Mary Parish, the Rev. Thomas Kemp, Dr. and Mrs. Mark Welch donated a substantial sum of money for the construction of a new church.

The church in Kendall was completed and blessed on 24 April 1979. Unfortunately for the doners, this came after Mrs. Beulah Welch had passed on to her eternal reward. More money was donated by Dr. Welch for the construction of a rectory. This came with the request that St. Mark be established as an independent parish. Bishop Head was favorable to this proposal and completed the consultations prescribed by both the 1917 Code of Canon Law and the 1983 Code of Canon Law as the latter had recently been promulgated and was about to come into force. The parish was officially established on 21 October 1983 but always shared a Pastor with its neighbor, St. Mary, Holley.

St. Mark church was already given permission to maintain its own financial records apart from St. Mary Parish in 1979. At its erection in 1983, no defined territory was assigned to it. Over the years, however, it has traditionally been associated with the territory of the Township of Kendall, NY. Thus, because it was not established as a personal parish and it has been over thirty years since its founding, the territory of the Township of Kendall has been assigned to it through legal custom (cf. cc. 23-28).

The church underwent major renovations in 1989. This led to a rededication ceremony on 28 January 1990. In March of 2023, St. Mark Parish was grouped into a cluster of neighboring parishes to form Family #13 in the diocesan Road to Renewal.

The Road to Renewal has allowed the diocese to gain a more realistic picture of the financial and sacramental situations in its parishes. St. Mark Parish has been identified as a community that could benefit by being joined with its parent community in Holley. Additionally, due to the need to amass a substantial sum of money to settle numerous civil claims in Federal Bankruptcy Court, the possibility of alienating some or all of this property has also been suggested. This was discussed with members of the Chancery and especially with the Reverend Bryan Zielenieski, Vicar for the Renewal. As a result of these conversations, I hereby issue the following decree.

THE LAW

Because a parish is a public juridic person (cc. 116, 515 §3) and therefore established perpetually (c. 120), it can only be extinguished by legitimate authority according to the norm of law. Canon 515 §2 states, “It is only for the diocesan bishop to erect, suppress, or alter parishes. He is neither to erect, suppress, nor alter notably parishes, unless he has heard the presbyteral council.”

Unstated in this norm is the requirement for at least a just cause in augmenting the structure of a parish. A parish is defined in law as “a certain community of the Christian faithful stably constituted in a particular church, whose pastoral care is entrusted to a pastor (*parochus*) as its proper pastor (*pastor*) under the authority of the diocesan bishop” (c. 515 §1). The focus of such augmentation is primarily concerned with the pastoral care of a group of people and only secondarily interested in specific worship sites. Thus, a merger of parishes falls under the governing authority of the diocesan bishop in accord with canon 374 §1.

Following the norm of canon 121, when two public juridic persons “are so amalgamated that one aggregate, itself with a juridic personality, is formed, this new juridic person obtains the goods and patrimonial rights proper to the prior ones and assumes the obligations with which they were burdened.” The eminent canonist Reverend Robert Kennedy notes, “Canon 121...focuses on what, in the United States, is called a consolidation, in which two or more juridic persons are so joined that each of them loses its own juridic identity and in their stead a new juridic person is constituted. A consolidation involves both the suppression and creation of juridic persons” (“Chapter II: Juridic Persons” in *New Commentary on the Code of Canon Law* (New York: Paulist Press, 2000) 168). Since the norm of canon 121 assumes a consolidation in which two juridic persons go out of existence to form a new juridic person from the amalgamation of the former entities, it does not strictly apply to the situation of a parochial merger in which one entity absorbs another.

When the principle of law contained in canon 121 is applied to the canonical merger of one parish into another, the receiving parish must assume all net assets and debts of the merging parish. Here the term “net assets” is used to indicate that the merging parish is responsible for paying off its debts before an accurate assessment of what constitutes the temporal goods of the merging parish can be determined. “Commutative justice,” the *Catechism of the Catholic Church* reminds us, “obliges strictly; it requires...paying debts” (n. 2411). This amount, once established, will be transferred to the receiving parish. What would be a clear *a iure* transfer of assets and liabilities to a newly constituted juridic person described in canon 121, is only partially applicable to the situation of a merging parish and can thus be addressed in terms of “net assets” to be identified at a future date.

THE ARGUMENT

The reshaping of the diocese to prepare it for more effective ministry in the future requires a certain consolidation of resources. The goal of the Road to Renewal is to reduce the strain on our already limited number of priests while at the same time uniting communities to foster a greater drive to “go out to all the world and preach the Gospel to all creation” (Mk 16:15). Part of this process requires the merging of parishes and the overall reduction of physical worship sites throughout the diocese. Looking at St. Mark Parish in particular, the research and consultation done by the Office for Renewal and Development has revealed that this community would be better served by joining its resources to St. Mary Parish in an extinctive merger.

On 30 August 2024, the presbyteral council met at the Catholic Center of the Diocese of Buffalo. At this meeting, I consulted the council about the possibility of merging St. Mark Parish into St. Mary Parish, Holley. Rev. Zielenieski pointed out that there would likely only be two available priests serving in Family #11 by 2030. An opportunity was afforded to Family #11 to make comments on the Renewal plan and offer alternative suggestions. The parishes making up this Family decided to accept the proposal of the diocese and offered no resistance to this merger. After discussion, members of the Council had the opportunity to vote on the merger proposal. The proposal received nearly unanimous support from the members of the Presbyteral Council gathered on 30 August.

Having heard the Presbyteral Council on this issue, I have chosen to merge St. Mark Parish into St. Mary Parish in accord with canon 515 §2.

Thus, having done the requisite consultations and having gained the required consents, I, the undersigned Most Reverend Michael W. Fisher, Bishop of Buffalo, exercising my ordinary power in virtue of canon 515 §2, do hereby decree that St. Mark Parish, Kendall be merged into St. Mary Parish, Holley and St. Mark to be extinct thereby.

St. Mary Parish will be the recipient of the net assets and liabilities of St. Mark Parish. The territorial boundaries of St. Mary Parish will henceforth include:

The townships of Murray, Clarendon, and Kendall.

The intentions of the founders and donors regarding the temporal goods and patrimonial rights proper to the extinct St. Mark Parish, insofar as they exist, must be respected. In addition, the temporal goods and patrimonial rights, and obligations of the extinct St. Mark Parish must be defined and allocated according to the norm of law (cf. cc. 121-122) as interpreted by this document.

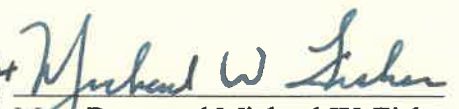
All the parish and sacramental records of the extinct St. Mark Parish are to be properly preserved and safeguarded in the parish archives of St. Mary Parish, Holley, in accord with the norm of law.

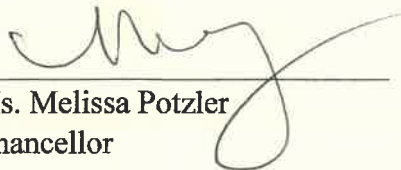
This decree is to be effective on Friday 30 May 2025.

This decree is to be communicated to the Rev. Mark Noonan, the Pastor of both parishes (c. 532) and the two parishes affected by this extinctive merger (cf. cc. 7, 54 §1). Anyone who feels his or her rights have been legitimately harmed by this decree, may present a challenge by requesting its revocation or emendation to its author within ten (10) useful days from its legitimate notification. Further recourse will follow the norms of canons 1734-1739.

Given at the Chancery of the Diocese of Buffalo on this 5th day of March 2025, Ash Wednesday.




Most Reverend Michael W. Fisher
Bishop of Buffalo


Ms. Melissa Potzler
Chancellor