



**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 MARY IMMACULATE PARISH, PAVILION AND ITS  
TERRITORY INTO ST. MICHAEL PARISH, WARSAW**

***THE FACTS***

In 1953, the Most Reverend Leo Smith, Bishop of Buffalo saw fit to establish a parish in East Bethany, New York. As part of the Buffalo Missionary Apostolate, this foundation was one instance of a larger diocesan plan to increase the availability of Catholic worship sites in rural areas. Extensive research and census taking resulted in the selection of East Bethany as the most preferable location for the new parish. On 18 June 1953, land was purchased from Mr. and Mrs. Raymond and Ruby Estes. Ground was broken on the new site on 4 May 1954 by another couple, Mr. and Mrs. Joseph Troidl, who donated \$20,000.00 which was the total cost of the new church.

The Rev. James R. McGrath was appointed as the first Administrator shortly after his ordination in 1954. He celebrated Masses for the new community in the Bethany Town Hall until the church was completed on 24 October 1954. Just under a year later, Bishop Smith dedicated the church in honor of the Blessed Virgin Mary. In the early years of the parish, the community started a successful religious education program, held lawn fates, and engaged in the venerable tradition of 40 fours devotion.

The Rev. John M. Duggan was appointed as the first resident pastor on 4 September 1960. The parish grew over time, implemented the liturgical changes of the Second Vatican Council, and continued its mission of bringing the Gospel of Jesus Christ to the people of East Bethany.

In the second year of the American Civil War, the Town of Pavilion became a mission of Batavia which was under the pastoral care of the Rev. Cunningham. Mass was originally offered at the old blacksmith shop that was purchased by the congregation and fitted as a makeshift church until construction was completed on the present building. In 1865 the church was finished

and began to be used. Over the years, more property would be purchased to expand the footprint of the church grounds to the main road.

Immaculate Conception Parish was joined with St. Mary Parish, Pavilion to form Mary Immaculate Parish on 1 September 2010 as part of the Journey in Faith and Grace initiative. In September of 2022, Mary Immaculate Parish was included in Family #14 as part of the Road to Renewal program. On 9 October 2024, I issued a decree relegating Immaculate Conception church to profane but not sordid use in accord with canon 1222 §2 with an effective date of 9 December 2024.

The Road to Renewal has allowed the diocese to gain a more realistic picture of the financial and sacramental situations in its parishes. Mary Immaculate Parish has been identified as a community that could benefit by being joined with its sister community in Warsaw. Additionally, due to our need to amass a substantial sum of money to settle numerous civil claims in Federal Bankruptcy Court, the possibility of alienating 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. As 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 Mary Immaculate 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. Michael Parish in an extinctive merger.

On 27 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 Mary Immaculate Parish into St. Michael Parish, Warsaw. Rev. Zielenieski pointed out that there would likely only be two available priests serving in Family #14 by 2030. St. Michael Parish has already absorbed the territory of the former St. Isidore Parish so as to centralize pastoral ministry and increase efforts for evangelization. This proposal received unanimous support from the members of the Presbyteral Council present on 27 August.

Having heard the Presbyteral Council on this issue, I have chosen to merge Mary Immaculate Parish into St. Michael 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 Mary Immacuale Parish, Pavilion be merged into St. Michael Parish, Warsaw and Mary Immaculate to be extinct thereby.

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

The townships of Pavilion, Covington, Bethany, Middlebury, Warsaw, Perry, Castile, Genesee Falls, Pike, Gainesville, that part of the Townships of Wethersfield and Eagle that is east of Centerville Rd (Rte. 362), and Poplar Tree Rd., that part of the Township of Orangeville east of the Orangeville Center Rd. and that part of the Township of Stafford that is south of Rte. 5.

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

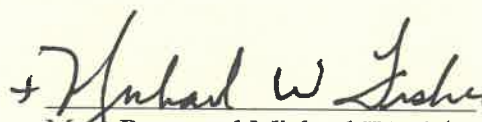
All the parish and sacramental records of the extinct St. Mary (Pavilion), Immaculate Conception (East Bethany) and Mary Immaculate Parishes are to be properly preserved and safeguarded in the parish archives of St. Michael Parish, Warsaw, in accord with the norm of law.

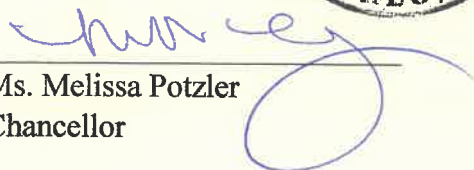
This decree is to be effective on Tuesday 10 December 2024.

This decree is to be communicated to the Rev. F. Patrick Melfi, 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 19<sup>th</sup> day of November 2024.



  
Most Reverend Michael W. Fisher  
Bishop of Buffalo

  
Ms. Melissa Potzler  
Chancellor