CHAPTER I

Response to CBCP Admonition of Nov. 18, 1992

The *Admonition* issued by the *Catholic Bishops Conference of the Philippines* on Nov. 18, 1992, contains errors that appear to be contrary to Catholic teaching and Tradition, and contrary to the Canon Law of the Church. As a Catholic priest, faithful to the Magisterium and Law of the Church, I feel it is necessary to comment with the following questions and answers, which I present, according to my right and duty, clearly set forth in Canon 748: "All persons are bound to seek the truth in matters concerning God and God's Church; ***by divine law they also are obliged and have the right to embrace and observe that truth which they have recognised***".

The bishops "***do not enjoy infallible teaching authority***" (can. 753), and therefore, since their teachings are not infallible, "and can be erroneous," as Coriden explains, "the principles of the pursuit of truth and the primacy of conscience still come into play. In other words, dissent is still possible because the teachers mentioned in the canon can be and *de facto* have been mistaken. To search for the truth is everyone's duty and right" (c. 748).[1] I therefore intend no disrespect to the magisterial office of the bishops, but I merely fulfil my right and duty in conscience to profess the true faith, to resist error, and to "obey God rather than men". (Acts 5:29)

Has the Society of St. Pius X Been Excommunicated?

TO THE STATEMENT, "Over the past 14 years, the group (Society of St. Pius X) has openly defied the admonition of the Holy See by ordaining bishops without pontifical mandate ***thereby incurring***

an automatic excommunication reserved to the Holy See ...", I ANSWER:

1) Was Archbishop Lefebvre, Bishop De Castro Mayer and the four bishops they ordained excommunicated?

According to can. 1382, "A bishop who consecrates someone a bishop and a person who receives such a consecration from a bishop without a pontifical mandate incur an automatic (*latæ sententiæ*) excommunication reserved to the Apostolic See".

This canon alone does not settle the matter. To determine whether or not the excommunication has been incurred, one must consider the factors which, according to law, remove or diminish imputability. Canon 1324, § 3 states that, "an accused is not bound by an automatic penalty (*latæ sententiæ*) in the presence of any of the circumstances enumerated in section one". One of those circumstances is the violation of a law or precept "by one who erroneously yet culpably thought one of the circumstances in can. 1323 nn. 4 and 5 was verified". Canon 1323, 4º refers to "a person who acted ... out of necessity or serious inconvenience unless the act is intrinsically evil or verges on harm to souls". It is, therefore, clearly set forth in the Law of the Church that one who even erroneously yet culpably thought that he was acting out of necessity does not incur any automatic penalty.

It is not the scope of this study to determine whether Archbishop Lefebvre et al. were correct in their judgement that the episcopal consecrations were necessary or not necessary: whether their judgements were erroneous and culpable, erroneous but not culpable, or neither erroneous nor culpable. What is certain is that Archbishop Lefebvre really believed that there did exist a truly grave necessity to consecrate the bishops even without papal mandate. His belief that there truly existed a case of necessity was set forth, as Mons. Lefebvre himself explained, in "an admirable study done by Professor Georg May, President of the Seminary of Canon Law in the University of Mainz in Germany, who marvellously explains why we are in a case of necessity ..." Canon 1323 clearly states that those acting "out of necessity" are "not subject to penalties", i.e. not subject to any penalty, and canon 1324, § 3 states that "one is not bound by an automatic (*latæ sententiæ*) penalty" ... "who erroneously yet cul-

pably thought" (1324 § 1, 8°) ... that he was acting "out of necessity or out of grave inconvenience ..." (1323 4°) Therefore the Law of the Church makes it indisputably clear that right or wrong, Archbishop Lefebvre and the four bishops consecrated by him did not incur any automatic (*latæ sententiæ*) penalty.

In spite of the declaration made by Lefebvre explaining why he believed it necessary to perform the episcopal consecrations, the July 1988 "decree" of Cardinal Gantin failed to take into account the above-mentioned provisions of cann. 1323 and 1324. If the Holy See really wanted to excommunicate Archbishop Lefebvre, it would have been necessary to proceed against him by imposing the penalty "*sententia ferenda*" after due process. The charge of Schism would certainly never have withstood the thorough investigation that due process demands,[2] and mitigating circumstances would almost certainly have required the imposition of a lesser penalty at most, or possibly no penalty at all (can. 1323, 4°) for the violation of can. 1382 — if due process had been followed. It is obvious that the Secretary of State did not want to run the risk of due process, and therefore the fraudulent procedure of issuing the incompetent decree of Cardinal Gantin was chosen instead.

Is the Society of St. Pius X in Schism?

TO THE STATEMENT, "We, the shepherds of the Catholic Church in the Philippines hereby admonish all our faithful not to join, support or participate in any of the religious rites or activities of ***the schismatic religious group***", I ANSWER:

2) Was Archbishop Lefebvre (and his followers) excommunicated for the offence of Schism?

Canon 751 defines Schism as the "refusal of submission to the Roman Pontiff or of communion with the members of the Church subject to him". The commentary on the Code of Canon Law, published with ecclesiastical approval by the Canon Law Society of America, explains that Schism is not merely a "simple refusal of subjection to the papal authority or of communion with the members of the Church, the revised canon speaks of a rejection (*detrectatio*), an adamant refusal to submit to the Pope or to remain in communion ..."

For one to be considered a schismatic, Cappello explains, "it is necessary that the one who withdraws from obedience or falls away from Catholic communion does so in a manner that is voluntary and pertinacious or formal, and hence gravely culpable ... (and) therefore whatever excuses from grave sin such as ignorance or good faith, also excuses from the crime of schism and as a consequence, from censure."[3]

It is not necessary that one give his name to or publicly adhere to a non-Catholic sect in order to be considered a schismatic. They are also schismatic who profess the Catholic faith and the primacy of the Roman Pontiff, but "who reject submission or communion."[4]

The Church does not consider all refusal of submission to be schismatic: the Canon Law Commentary of Wernz-Vidal explains, "Finally one cannot consider as schismatics those who refuse to obey the Roman Pontiff because they would hold his person suspect or, because of widespread rumours, doubtfully elected (as happened after the election of Urban VI) ..."[5]

Those, however, who profess their submission to the Roman Pontiff, but for reasons of conscience refuse obedience in order to adhere to the traditions to which the Catholic conscience is bound[6] are not considered by the Church to be schismatics merely because they refuse to obey rulings that they consider suspect. Such a refusal to obey is not an adamant rejection of the pope's authority nor is it a refusal to be subject to the pontiff: it is material disobedience without formal contempt either imperfect or perfect — a refusal to obey certain laws and precepts for reasons of conscience.

What the Church considers to be a schismatic act is not pertinacious disobedience, but pertinacious refusal to be subject to the Roman Pontiff. There is a huge difference between the two: a schismatic act is an act that rejects the authority or *imperium* of the Pope, whereas disobedience is a rejection only of that which has been commanded, as Cappello explains, citing the authority of Suarez[7] and Wilmers: "disobedience regards the matter itself of the precept, but not the *imperium* or the authority".[8]

It is of critical importance to understand what is meant by the ex-

pression, "one who withdraws from obedience" (*recessus ab obedientia*) to the Roman Pontiff. The Church understands this expression to refer to one who adamantly refuses to obey the Roman Pontiff with "perfect formal contempt", i.e. contempt of the pontiff and his authority, not merely contempt for the precept issued by the pontiff. "Formal contempt of a precept", as Prümmer explains the doctrine of St. Thomas Aquinas, "is called imperfect, whereas contempt of the one who issues the precept is called 'perfect formal contempt', and is much more grave than formal contempt of the precept".[9] Schismatics are those who "pertinaciously refuse obedience to the Roman Pontiff ***in so far as he is head of the Church***",[10] and hence, schismatic disobedience is an obstinate refusal to obey the Roman Pontiff with perfect formal contempt of the pontiff as supreme head of the Church. Mere contempt of a precept or law of the Pope, no matter how grave or obstinate, is mere disobedience of a precept, and therefore not schismatic in its essence, and hence, does not separate one from the Church.[11]

Archbishop Lefebvre (and the Society of St. Pius X which he founded) repeatedly professed his submission to the Roman Pontiff, and his willingness to obey laws and precepts that he in conscience considered to be legitimate and in conformity with Catholic tradition. What we saw in Lefebvre, and now see in his followers, is not an adamant refusal to submit to authority but an adamant refusal to accept innovations and reforms. Lefebvre summed up this attitude in his own words: "For our salvation, categorical refusal of the reform is the sole attitude of loyalty to the Church and to Catholic doctrine." This is an attitude of dissent — not of contempt, either imperfect or perfect — and certainly not an attitude of schism, but an attitude of dissent based on objections of conscience.

Was the Episcopal Consecration of June 1988 an Act of Schism?

3) Did Lefebvre or his followers fall into schism after the episcopal consecrations of June 1988?

A schismatic act in its very nature is something that separates the schismatic from the body of the Church, and hence the schismatic is

automatically excommunicated. "The Church," says the Canon Law Society Commentary, "does not expel persons from its midst. Essentially the ... schismatic withdraws those bonds (of full communion) by a personal act. The Church recognises this in declaring the bonds severed ..."[12] It is not always clear what such a formal act might be: "what such a formal act might be is not specified in the law, and in contemporary practice it may be difficult to determine."[13] A formal declaration of having left the Church would be a clear and indisputable act of severing the bonds of communion, and is therefore a formal, schismatic act. Likewise, the attempt to exercise episcopal jurisdiction by one who has not received an apostolic mission from the Pope would be guilty of a formally schismatic act, because such a usurpation of jurisdiction would constitute a rejection of the Pope's universal and ordinary jurisdiction over every diocese and every faithful Catholic in the world.

Such a rejection of the Pope's authority or imperium does not take place when a bishop performs an illicit episcopal consecration, but only the "*res ipsa præcepta*" the commanded thing itself is rejected, and it is therefore not a schismatic act. Thus, Fr. Patrick Valdrini, Dean of the Faculty of Canon Law of the *Institute Catholique* in Paris, explained that Archbishop Lefebvre did not commit a schismatic act because he did not deny the Pope's primacy with an act of usurpation of the universal and ordinary jurisdiction of the pontiff by attempting to confer an apostolic mission on the men he consecrated.[14]

In a similar vein, Cardinal Castillo Lara, President of the *Pontifical Commission for the Authentic Interpretation of Canon Law,* explained that, "The act of consecrating a bishop (without a pontifical mandate) is not in itself a schismatic act ... (because it is only) an offence against the exercise of a specific ministry ..."[15] Cardinal Lara went on to cite the example of Archbishop Ngo Dinh Thuc who consecrated bishops in 1976 and 1983 without papal mandate: "Although the Archbishop was excommunicated, he was not considered to have committed a schismatic act because there was no intention of a breach with the Church".[16]

It is manifestly evident from canonical tradition that the Church does not consider an act of episcopal consecration without papal mandate to be a schismatic act. The Church has always regarded a formally schismatic act as something which severs the perpetrator from the body of the Church, and therefore the act itself *ipso facto* effects the excommunication of the perpetrator of a schismatic act. In the 1917 Code of Canon Law, the crime of Schism effected the penalty of *ipso facto* excommunication.[17] In the 1917 Code, and in the previous legislation before the codification undertaken by Pope St. Pius X, the Church did not consider the ordination of a bishop without papal mandate to be a schismatic act. This is reflected in the fact the delict was not sanctioned with a *latæ sententiæ* excommunication, but was only punished with a suspension *a divinis* reserved to the Apostolic See.[18] If the Church considered such an act to be essentially schismatic, then it would certainly and necessarily have effected the automatic excommunication of the violator, although such a penalty in itself would not necessarily denote a schismatic act.

The 1983 Code of Canon Law does not depart from the canonical tradition according to which an episcopal consecration performed without papal mandate is not considered to be a schismatic act. This is manifestly evident in view of the fact that in Part II of Book Six of the Code, entitled "Penalties for Specific Offences", the crime of Schism is dealt with in Title One, "Offences against Religion and the Unity of the Church". Crimes of a specifically schismatic nature are crimes against the unity of the Church, and they are dealt with in this section. The crime of unauthorised episcopal consecration, however, is not found in this section of the Code that deals with crimes against the unity of the Church, but is rather to be found under a different heading.

Canon 1382 which imposes the censure of *latæ sententiæ* excommunication on "a bishop who consecrates someone a bishop and a person who receives such a consecration from a bishop without a pontifical mandate", is not listed as a crime against the unity of the Church, but is found under Title Three, "Usurpation of Ecclesiastical Function". Hence the Church, even in its present legislation en-

acted into law by our present Holy Father John Paul II, reflects the constant canonical tradition of the Church and does not regard the said offence to be an essentially schismatic act.[19]

The importance of assessing the canons of the 1983 Code in accord with canonical tradition is a matter of strict necessity, because the Law of the Church requires it: "The canons of this Code insofar as they refer to the old law are to be assessed also in accord with canonical tradition". (can. 6, § 2) If, then, canon 1382 is to be assessed in accord with the canonical tradition of the Church as the law requires, then clearly the offence dealt with in this canon may not legitimately be considered a schismatic act in itself.

It may then be asked, "did not the Pope refer to the unauthorised episcopal consecration performed by Mons. Lefebvre et al. as a schismatic act?" To which question the emphatic response must be given: "The Pope did not express his mind either in the form of a binding magisterial papal teaching nor did he express his will in a juridical act in his capacity as supreme judge and legislator." Both internal analysis and subsequent events demonstrate the truth of this statement beyond legitimate dispute.

It must first be emphasised that Catholics are not bound to give an assent of faith to every statement that the Pope makes on matters of faith and morals. Canon 749 states: "The Supreme Pontiff, in virtue of his office, possesses infallible teaching authority when, as supreme pastor and teacher of all the faithful ... he proclaims with a definitive act that a doctrine of faith or morals is to be held as such". The key words here are "***in virtue of his office***", and, "he proclaims ***with a definitive act*** that a doctrine of faith or morals ***is to be held as such***". It must be clear then, that the Pope is acting in his official capacity as supreme teacher and pastor, and he must use words that clearly denote "a definitive act" that a doctrine of faith or morals "is to be held as such". If there is any positive doubt about any of the above-stated conditions being verified, then it is to be presumed that the Pope has not made an infallible *ex cathedra* pronouncement, in accord with the principle *lex dubia non obligat* (a doubtful law does not bind), as is clearly set forth in the third paragraph of the same

canon (749): “No doctrine is understood to be infallibly defined unless it is clearly established as such”.

In his reference to the unauthorised episcopal consecrations as a “schismatic act”, the Holy Father nowhere employs any of the standard terms which must be used in order to clearly indicate that he is binding the conscience of the faithful by an exercise of his universal magisterium, i.e. his office of universal teacher of the Catholic faithful. When expressing his opinion in the matter, he did not use the expression, “By Our Apostolic Authority we declare” or any such similar standard formula that is traditionally used to denote an official papal magisterial pronouncement. Unless the Pope clearly expresses his intention to exercise the power of the keys to bind the conscience of the faithful with an official magisterial teaching or an official papal ruling, it is to be presumed that he did not exercise the power of the keys, according to the dictum: *lex dubia non obligat*. The Pope did not express any intention to bind the conscience of the faithful by the exercise of the power of the keys, and therefore it is manifest that he did not exercise the power of the keys in the form of a binding magisterial teaching or a pontifical ruling.

Similarly, it can be clearly seen that the Pope did not give any binding juridical expression to any reference he made concerning the topic of “schism” or “schismatic act” in the same above-mentioned *Motu Proprio*. The Pope did not employ any of the standard legal formulae which must be used in order to indicate a legislative or judicial act. The Pope did not use any such expression as “We statute”, “We decree”, “We declare” or “We have decided”, when he made reference to the “schismatic act”, and the “Schism”, and in particular when he stated that the six individuals involved in the unauthorised episcopal consecrations had incurred the penalty of excommunication. The only juridical act in *Ecclesia Dei*, whereby the Pope exercised the power of the keys, i.e. exercised his apostolic authority as successor of St. Peter, was the decree establishing the Pontifical Commission, “Ecclesia Dei”. The Pope clearly indicated his intention to exercise the papal prerogative to bind and loose when he declared: “By virtue of my Apostolic Authority I decree the fol-

lowing ..."[20]

It may still be objected by some that the Pope, in labelling the episcopal consecrations performed by Archbishop Lefebvre as a "schismatic act", was exercising the office of his *ordinary magisterium* when he said, "such disobedience ... which implies in practice the rejection of the Roman Primacy — constitutes a schismatic act". Another cautionary note is therefore in order: Canon 750 states, "All that is contained in the written word of God or in tradition, that is in the one deposit of faith entrusted to the Church and also proposed as divinely revealed either by the solemn magisterium of the Church or by its ordinary and universal magisterium, must be believed with divine and catholic faith ..." It is not enough that the Pope simply make the statement that he made by himself. In order that a doctrine be infallibly taught by the *universal and ordinary magisterium* of the Church, it must be proposed as divinely revealed, it must be in conformity with the teaching of scripture and sacred tradition and it must be universally and definitively taught by the bishops throughout the world united in a bond of communion among themselves and with the Roman Pontiff.[21] The Pope made no claim in *Ecclesia Dei* to be expounding any divinely revealed truth, and the statement, which does not cite any doctrinal source, clearly appears, as will be shown below, to be contrary to the traditional moral teaching of the Church.

The Pope admitted that the unauthorised episcopal consecrations were not intrinsically schismatic when he said, "In itself the act was one of disobedience to the Roman Pontiff in a very grave matter ..." However, when the Pope went on to say that the act of disobedience was a "matter of supreme importance for the unity of the Church ...", he seems to be implying that such disobedience is an offence against the unity of the Church, whereas in reality it is not that at all, but only "an offence against the exercise of a specific ministry".[22] The official canonical position of Pope John Paul II is contrary to what appears to be his stated opinion in *Ecclesia Dei*, since the Holy Father, when he signed the decree which conferred the force of law on the revised 1983 Code of Canon Law, placed canon 1382 in the section

which classifies the aforementioned offence as a "usurpation of ecclesiastical function", and not as an offence "against the unity of the Church".

The critical phrase in *Ecclesia Dei* is the statement that the unauthorised episcopal consecration, while considered in itself is essentially an act of disobedience: "such disobedience ... which implies in practice the rejection of the Roman Primacy — constitutes a schismatic act". This proposition is not to be found in the traditional expressions of Catholic Moral Theology. It can be stated that such an act *usually* constitutes a schismatic act because it is usually done by schismatics, i.e. those who reject the primacy of the pope. It cannot be legitimately maintained that such disobedience *always* implies a rejection of the Roman primacy, since, as Oratorian canonist T.C.G. Glover explains, "A mere act of disobedience to a superior does not imply denial that the superior holds office or has authority".[23] In order to be guilty of a schismatic act, Count Neri Capponi[24] explains, it is not enough that one merely consecrate a bishop without a papal mandate:

> He must do something more. For instance, had he set up a hierarchy of his own, it would have been a schismatic act. The fact is that Msgr. Lefebvre simply said: I'm creating bishops in order that my priestly association can continue. Therefore they have no jurisdiction. They do not take the place of other bishops. I'm not creating a parallel church. I'm simply giving the full sacrament of Orders to a certain number of people so that they can ordain others.
>
> Therefore, this act was not *per se* schismatic. Otherwise, it would not have been provided for in the code under a different canon. It would have been all grouped under schism.[25]

The act of unauthorised episcopal consecration does not imply a practical rejection of the Roman primacy unless there is present a circumstance which alters the specific nature of the act from disobedience to schism. The circumstance mentioned by the Pope, namely, the flouting of a formal canonical warning, does not alter the specific

nature of the offence, but only increases its gravity, since the essence of the disobedient act remains strictly a rejection of the *res ipsa præcepta,* i.e. mere disobedience to the precept: no matter how obstinate the disobedience and notwithstanding the number and solemnity of the warnings or precepts. In the absence of circumstances that alter the specific nature of the act, such disobedience never implies in practice a denial of the Roman primacy because such disobedience does not constitute a formal act whereby such an offender would "pertinaciously refuse obedience to the Roman Pontiff ***in so far as he is head of the Church***".[26]

The onus remains, therefore, on the Pope to specify the circumstance which changes the nature of the act from disobedience i.e., a rejection of the *res ipsa præcepta*, to a schismatic act of "perfect formal contempt", i.e. an act that is rooted in the *formal* rejection of the *imperium* or authority of the Pope, and therefore a practical rejection of the Roman primacy. The burden of proof remains with the Pope especially in view of the fact that Archbishop Lefebvre openly declared that he and the four ordinands had no intention whatever to sever the bonds of communion with the Church or to break with the Pope: Lefebvre declared, "We confirm our adherence and subjection to the Holy See and the Pope". Lefebvre and the bishops he ordained have repeatedly disclaimed any intention to set up a rival hierarchy. Everything that Lefebvre has done in disobedience was done for the sake of doing what he thought necessary for the survival of his priestly fraternity and traditional Catholicism. He justified his dissent on the principle: *Necessitas non habet legem* (Necessity knows no law). Right or wrong, that is not schism.

Finally, there is the ruling of the Holy Office (Sacred Congregation for the Doctrine of the Faith), emitted on June 28, 1993, which overturned the ruling of Bishop Ferrario, who declared that six persons in his diocese had "incurred ipso facto the grave censure of excommunication" for performing a "schismatic act" by "procuring the services of Bishop Williamson ... (and) by that very association with the aforementioned bishop". Bear in mind that Bishop Ferrario's decree was based on the July 1, 1988, decree of Cardinal

Gantin, Prefect of the Sacred Congregation for Bishops, which declared that Archbishop Lefebvre had performed a "schismatical act" by ordaining the four bishops, and warned "the priests and faithful ... not to support the schism of Monsignor Lefebvre, otherwise they shall incur the very grave penalty of excommunication". Cardinal Gantin cited canon 1364 § 1, which states: "... a schismatic incurs automatic (*latæ sententiæ*) excommunication ..." On the following day the Pope made a similar but non-juridical statement: "Everyone should be aware that formal adherence to the schism is a grave offence against God and carries the penalty of excommunication decreed by the Church's law (can. 1364)".

In spite of their formal adherence (pertinacious *communicatio in sacris*) to the "movement of Archbishop Lefebvre", the Holy Office declared that the six persons in question did not perform "schismatic acts in the strict sense, as they do not constitute the offence of schism; and therefore the Congregation holds that the Decree of May 1, 1991, (the declaration of excommunication) lacks foundation and hence validity."[27] It must be emphasised that pertinacious *communicatio in sacris* with a schismatic sect formally constitutes the crime of schism,[28] and therefore it is manifestly evident that the Church, in the competent ruling of the Sacred Congregation for the Doctrine of the Faith, does not consider the Society of St. Pius X to be a schismatic church.[29]

If the Pope had indeed issued a formal ruling in the matter of schism in *Ecclesia Dei*, and if the Pope had authorised the aforementioned decree of Cardinal Gantin, then it would be utterly inconceivable that the Holy Office should presume to issue a contrary ruling, since, as canon 333 states: "There is neither appeal nor recourse against a decision or decree of the Roman Pontiff". It is clear, therefore, that the Pope did not make an official ruling, and the decree of Cardinal Gantin lacked the necessary papal approval.

Canon 31 states that, "General executory decrees determine more precisely the methods to be observed in applying the law or themselves urge the observance of laws. Persons who possess executive power are able to issue such decrees ***within the limits of their com-***

petency". The competent dicastery to deal with the question of schism is the Holy Office, and therefore the aforementioned decree of Cardinal Gantin violates can. 31. If the same decree is to be considered a legislative act, a "general decree" described in canon 29, then it is in clear violation of canon 30 which states that "Persons who possess only executive power are not able to issue the general decrees mentioned in can. 29, unless in particular cases such power has expressly been granted to them by a competent legislator in accord with the norm of law ..."

If the Pope had authorised the Gantin decree, it would be considered a papal act and would therefore be "neither appeal nor recourse" (can. 333) against it. The clause referring to the "priests and faithful" incurring the "very grave penalty of excommunication" has been overturned by the competent dicastery of the Apostolic See, namely, The Sacred Congregation for the Doctrine of the Faith. Hence, the decree of July 1, 1988 of Cardinal Gantin was lacking in the necessary papal authorisation and jurisdiction which the Law of the Church (cann. 29, 30, 31) requires.

From all that is stated above, it is clear that neither the Pope nor the competent dicastery of the Apostolic See has declared the Society of St. Pius X, or their supporters, followers and adherents to be in schism.

Liturgical Changes Decreed by Vatican II

TO THE STATEMENT, "In the aftermath of the Second Vatican Council, there have been Catholics who, in their obsession and insistence to cling to the pre-Vatican II liturgical practices, have resisted ***certain changes in the liturgy decreed by Vatican II*** ...", I ANSWER:

For the last twenty-five years, the Catholic faithful have been misled into believing that the Second Vatican Council authorised the changes that have taken place in the Roman liturgy, and that Pope Paul VI formally enacted the new Mass into law as a mandatory replacement for the old rite. A careful examination of the conciliar, papal and curial documents that instituted the new liturgy reveals however that neither Pope nor Council have decreed the suppression

of the traditional Roman liturgy and its replacement by the new rite.

The Second Vatican Council did not issue any legislative decrees or canons on the liturgy, but merely laid down the general guidelines and principles for the revision of the liturgy. The constitution on the liturgy, *Sacrosanctum Concilium,* set forth that, "the rite of the Mass is to be revised ... (and) restored according to the pristine norms of the holy Fathers ... (and) in order that sound tradition be retained ... there must be no innovations unless the good of the Church genuinely and certainly requires them, and care must be taken that any new forms adopted should in some way grow organically from forms already existing."

The same constitution made it clear beyond legitimate dispute that no radical changes were to be made in the Mass when it stated:

- 1. "Finally, ***in faithful obedience to tradition***, the sacred Council declares that Holy Mother Church holds all lawfully recognised rites to be of equal right and dignity; that ***she wishes to preserve them in the future*** and to foster them in every way."
- 2."The Council also declares that, where necessary, the rites be revised carefully ***in the light of sound tradition*** ..."

From the above conciliar texts it is abundantly clear that the Council, although it issued no legislative canons or decrees on the liturgy, unequivocally stated its intention to preserve the traditional Roman Rite of the Mass. The Council had no intention to suppress the traditional Roman Rite of Mass and replace it with a "new rite of Mass"[30] which is substantially identical to the *Missa Normativa* that was rejected in 1967 by a Roman synod of bishops made up almost entirely of Vatican II council fathers.[31]

The Institution of the New Mass

A careful examination of the legislation that instituted the new rite of Mass will conclusively demonstrate that Pope Paul VI did not obrogate, abrogate, abolish or suppress the traditional Roman Rite of Mass, but he merely ***derogated*** some of the provisions of *Quo Primum Tempore* in order to allow for the use of the New Mass.

The fundamental document instituting the New Mass was *Missale Romanum*, published by Paul VI on April 3, 1969. It was published the following June in the *Acta Apostolicæ Sedis* with an additional clause added. The added clause contains the legal jargon that gives the constitution force of law for all that it decrees. It reads as follows: "*Quæ constitutione hac Nostra præscripsimus vigere incipient a XXX proximi mensis Novembris hoc anno, id est a Dominica I Adventus*". In English, "What we have ordered by this our constitution will begin to take effect as from 30th November of this year (1969), that is the first Sunday of Advent".

The key words in the preceding clause are, "what we have ordered" (*quæ ... præscripsimus*), because that is what determines exactly what it is that Paul VI decreed into law. The constitution contains only two decrees:

- 1."We have decided to add three new canons to the eucharistic prayer", and,
- 2."We have directed that the words of the Lord be identical in each form of the canon".

These two decrees are the only legislation that can be found in the document. Hence, the *clause de style* that concludes the paragraph, "We decree that these laws and prescriptions be firm and effective now and in the future, notwithstanding, to the extent necessary, the apostolic constitutions and ordinances issued by our predecessors and other prescriptions, even those deserving particular mention and ***derogation***", formally enacts into law only those two items.

The key word in the last clause is "derogation". The new Missal of Paul VI is only a derogation, an exception, a derogation to the previous laws which are still in force. Notwithstanding the Pope's personal wishes and opinions expressed in an unofficial non-legal manner, the legally expressed will of the Roman Pontiff did not impose the new rite of Mass on the Latin Patriarchate of the Church. *Missale Romanum* of Paul VI is only a derogation of some of the provisions of *Quo Primum* which remains in force.

It is, therefore, a misconception that the legislation instituting the

New Mass imposes the new rite on the Roman Church in an obligatory manner. Cardinal Silvio Oddi's interview in the August 1988 issue of *Valeurs Actuelles* made this clear when he said, "It needs to be said that the Mass of St. Pius V has in fact never been officially abrogated".

It is also a false opinion that maintains that *Missale Romanum* obrogates *Quo Primum* and therefore effectively suppresses the traditional rite of Mass. This opinion is false for two reasons:

- **1.** The mere publication of a new Missal does not effect the obrogation of previous legislation — there is no such thing as implied legislation. It must not be forgotten that it pertains to the very essence of law that 1) it must be preceptive in its wording if it is going to make something obligatory, 2) it must specify who are the subjects of the law, and it must specify where and when the law will be in force, 3) the law must be publicly promulgated in the manner specified by law, by the competent authority.

The legislation in *Missale Romanum* refers only to prayers and formulae to be printed in the new Missal. There is absolutely nothing of a disciplinary nature mandated in the document: the use of the new Missal is not prescribed for anyone at any time or any place. Hence the solemn decree of *Quo Primum* remains in force, according to which provisions "give and grant in perpetuity that for the singing or reading of Mass in any church whatsoever this Missal (the Tridentine Missal) may be followed absolutely, without any scruple of conscience, or fear of incurring any penalty, judgement or censure, and may be freely and lawfully used. Nor shall bishops, administrators, canons, chaplains and other secular priests, or religious of whatsoever order or by whatsoever title designated, be obliged to celebrate Mass otherwise than enjoined by us".

- **2.** It is clearly stated in Canon Law that an immemorial custom cannot be abrogated except by explicit mention in the new legislation.[32] No post-conciliar papal legislation has dared to presume to attempt the suppression of the

> venerable Roman Rite of Mass, which is more than just an immemorial custom but is the universal and perpetual custom of the Latin Patriarchate, the suppression of which, as shall be demonstrated below, would be contrary to the doctrine of the Faith.

The Sacred Congregation for Divine Worship has manifested its utter contempt of Ecclesiastical Law and the Catholic Faith by issuing and enforcing up to the present day its abusive and schismatic ruling of October 28, 1974, which denied that the Traditional Rite of Mass could be celebrated under "any pretext of custom, even immemorial custom".

It should come as no surprise that Paul VI did not obrogate or abrogate *Quo Primum* in order to suppress the traditional Roman Rite of Mass, since the Council explicitly decreed that all of the lawfully acknowledged rites, of which the most universal, most ancient and most venerable is the traditional Roman Rite, must be preserved in the future and fostered in every way. Indeed, it can scarcely be imagined that the Council could have decreed differently, since by decreeing the preservation of traditional liturgical rites the Council was only upholding the infallible doctrine of the Catholic Faith.

The New Mass in Light of Tradition

Since the earliest times, Sacred Tradition, whether Apostolic or Ecclesiastical, has been regarded as something to be preserved inviolate. For the Apostolic Fathers, Tradition was simply the "Rule of Faith" which no earthly authority could overrule. St. Polycarp flatly refused to obey the Pope's command to abandon his traditional liturgical custom and follow the Roman custom of Easter observance. St. John Chrysostom simply declared: "Is it Tradition? Ask no more."

The traditional Roman Rite of Mass is the universal and perpetual custom of the Latin Patriarchate, rooted in Apostolic Tradition, and therefore the Catholic Faith forbids that it ever be suppressed or abandoned. The proposition that the customary rites of the Roman Church can be suppressed and replaced with other new rites by any Church Pastor whosoever is a solemnly anathematised heresy[33] and is contrary to the Tridentine Profession of Faith solemnly issued by

Pope Pius IV in 1564, which states:

> "**I most steadfastly admit and embrace Apostolic and Ecclesiastical Traditions and all other observances and constitutions of the said Church ...**
>
> "**I also receive and admit the received and approved rites of the Catholic Church used in the solemn administration of the ... sacraments**".

St. Peter Canisius, a Doctor of the Church, wrote in his *Summa Doctrinæ Christianæ*, "It behooves us unanimously and inviolably to observe the ecclesiastical traditions, whether codified or simply retained by the customary practice of the Church". Similarly, St. Peter Damian, also a Doctor of the Church, teaches, "It is unlawful to alter the established customs of the Church ... Remove not the ancient landmarks which thy fathers have set".

The Second Council of Nicea condemned "those who dare, after the impious fashion of heretics, to deride the ecclesiastical traditions and to invent novelties of some kind or to endeavour by malice or craft to overthrow any one of the legitimate traditions of the Catholic Church". In the Twentieth Century, Pope Benedict XV repeated almost verbatim the words of Pope St. Stephen I, when he declared, "Do not innovate anything. Rest content with Tradition".[34]

Indeed it was the charism of the Petrine office that prevented Pope Paul VI from violating the teaching and tradition of the Church by mandating the use of the "new rite of Mass". A decree mandating the use of the new rite and the suppression of the traditional rite would constitute a schismatic act. Citing the doctrine of Pope Innocent III, Cardinal Juan de Torquemada (1388-1468), Papal Theologian of Pope Eugenius IV who was named *Defender of the Faith* by that same Pontiff, explained in his *Summa de Ecclesia*:

> By disobedience the Pope can separate himself from Christ despite the fact that he is head of the Church, for above all, the unity of the Church is dependent on its relationship with Christ. The Pope can separate himself from Christ by either disobeying the laws of Christ, or by com-

manding something that is against the divine or natural law. By doing so, the Pope separates himself from the body of the Church because this body is itself linked to Christ by obedience. In this way the Pope could, without doubt, fall into schism ... ***Especially is this true with regard to the divine liturgy, as for example, if he did not wish personally to follow the universal customs and rites of the Church ... Thus it is that Innocent states*** *(De Consuetudine)* ***that, it is necessary to obey a Pope in all things as long as he does not himself go against the universal customs of the Church, but should he go against the universal customs of the Church, he need not be followed***.

Francisco Suarez S.J. (1548-1617), whose vast erudition and great orthodoxy earned him the honour of being named by Pope Paul V *Doctor Eximius et Pius*, in ***De Charitate, Disputatio XII de Schismate,*** explains that a Pope "falls into Schism if he departs himself from the body of the Church by refusing to be in communion with her ... The Pope can become a schismatic in this manner if he does not wish to be in proper communion with the body of the Church, a situation which would arise if he tried to excommunicate the entire Church, or, as both Cajetan and Torquemada observe, ***if he wished to change all the ecclesiastical ceremonies***, founded as they are on apostolic tradition".

As I explained above, Pope Paul VI did not himself commit the schismatic act of attempting to mandate the use of the "new rite of Mass" — that dubious distinction falls on his subordinates in the Sacred Congregation for Divine Worship and all the bishops who presume to forbid or place restrictions on the public celebration of the traditional rite of Mass.

After the publication of the New Missal, the Sacred Congregation for Divine Worship, by order of Paul VI, promulgated the new rite on March 26, 1970. Strangely the word "promulgation" had already appeared in the title of the Apostolic Constitution *Missale Romanum*, but that constitution did not actually promulgate the rite, but only announced the publication of the new Missal. Thus, the March 1970 promulgation seems to acknowledge that *Missale*

Romanum was not really a promulgation but only the publication of the new Missal when it uses the words "*approbatis textibus ad Missale Romanum pertinentibus per Constitutionem Apostolicam Missale Romanum*".* Thus, clearly there was the need for a second promulgation in order to validly effect the promulgation of the new Missal.

The March 1970 promulgation by the Sacred Congregation for Divine Worship allows for the immediate use of the Latin edition of Pope Paul's Missal upon publication, and conceded to the episcopal conferences the authority to establish when the vernacular editions may be used. This decree did not mandate the use of the new rite nor did it attempt to forbid the use of the old rite: it merely authorised the use of the new Missal. Up to this point, at least, the Sacred Congregation had not yet made its schismatic ruling.

Whence then comes the alleged obligation to use the new Missal of Paul VI? Michael Davies explains that "... Pope Paul VI himself stated in his Consistory Allocution of 24 May 1976 that 'the adoption of the (new) Ordo Missæ is certainly not left up to the free choice of priests or faithful.' This indicates that he himself believed the new Mass to be mandatory — but, astonishingly, as his authority for this opinion, he cited the 1971 *Instruction* and not his own Apostolic Constitution". That document was, in fact, not even an Instruction but merely a **Notification**!

Truth is indeed stranger than fiction. The Catholic faithful have been deceived by their own pastors who have been saying for twenty-five years that Vatican II and the Pope authorised the new rite of Mass to replace and suppress the old rite. Pope Paul VI indeed stated in his general audience of November 19, 1969, that a change was "about to take place in the Latin Catholic Church" — "the introduction of a new rite of Mass into the liturgy". It was, however, neither the Pope nor the Council who decreed the suppression of the old rite and its mandatory replacement by the new rite — that was brought about by a 1971 **Notification** which attempts to overrule the

* **"**the texts of the Roman Missal having been approved by the Apostolic Constitution *Missale Romanum*".

solemn decrees of Popes and the declarations of Councils. The Catholic faithful have been fed with lies by their pastors. The suppression of the Traditional Latin Mass is entirely illegal, schismatic and contrary to the Catholic Faith.