THEOLOGICAL ROUNDTABLE

EXCOMMUNICATION—COMMUNICATION
AN ESSAY IN LAYERED ANALYSIS

Peter Hünermann
University of Tübingen (*Emeritus*)

The news of the crisis in the Catholic Church occasioned by the lifting of the excommunication of the four bishops of the Pius X Fraternity founded by Archbishop Lefebvre has swept through the media in the last weeks.[1] Critical reporting about details of the affair and about the persons involved have put the Vatican in a very bad light. The statements of diverse bishops and episcopal conferences, the irritation experienced by many Christians, the Jewish reaction to the pardon for a denier of the Holocaust, the strain put on the relationship between the Jewish and Christian communities, and so forth may serve as an index for the depth of the crisis. The sharpness and the spectrum of reactions call for a sober analysis, in order to reach an understanding of the situation and in order to contribute to clarification of its implications. Thus I propose to present here a layered analysis, because it is important to distinguish the very diverse aspects of the affair in order to gain a more or less transparent picture of what has happened. At the end of this study, I shall attempt a theological evaluation of the whole complex of events. Such an evaluation is urgently necessary. With the exception of some protests and statements issued by theological schools, no orderly, well-argued, theologically grounded, overall evaluation has

[1]*Editor's note:* Pius-X-Fraternity: in German, *der Priesterbruderschaft St. Pius X;* in French, *la Fraternité sacerdotale saint Pie X;* in the USA, the Society of Saint Pius X (SSPX). The roundtable uses various forms of the name of the group, since the participants have chosen the formulation with which they are most familiar.

Prof. Dr. Dr. h.c. Peter Hünermann is professor emeritus of dogmatic theology at the University of Tübingen, the founding president of the European Society for Catholic Theology (which he led from 1989 until 1995), and the author of numerous works in systematic theology. His recent publications include Herders Theologischer Kommentar zum Zweiten Vatikanischen Konzil *(5 vols., 2004–05, co-edited with Bernd Jochen Hilberath), the most recent editions of Denzinger's* Enchiridion Symbolorum, *and* Dogmatische Prinzipienlehre (2003).

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yet appeared. In the media, highly emotion-colored statements dominate. Petitions are circulated that give witness to strange alliances and further polarize the discussion.

I. The Canonical Point of Departure

According to current canon law, when a consecrated Catholic bishop without permission of the Pope proceeds to consecrate someone a bishop, the consecration is valid, but both the persons consecrating and the persons consecrated incur automatic excommunication. (Codex Iuris Canonici, canon 1382: "A bishop who consecrates some one a bishop without a pontifical mandate and the person who receives the consecration from him incur a *latae sententiae* excommunication reserved to the Apostolic See").[2] This punishment is immediately consequent upon the action. The excommunication excludes those who are excommunicated from the possibility of exercising any function during the celebration of the Eucharistic Liturgy or any other worship celebration, and further, of administering or receiving any sacraments or sacramentals, and of assuming or exercising any church ministry, office or responsibility. Thus, in a way, the excommunication represents an analogy to the loss of fundamental civil rights by someone legally condemned to a prison sentence. The theological foundation of such a punishment according to canon law is the need to protect the unity of the Church in the legal public sphere. As successors to the apostles, the bishops are entrusted with the public teaching authority in the Church. In view of the Church's mission to the world, the centrifugal forces unleashed by controversies within the Church are incredibly sharp. The instrument of excommunication is the *ultima ratio* to contain such forces.

The lifting of an excommunication presupposes a preceding act of repentance on the part of the excommunicated bishop, who has been validly but illegitimately consecrated. This penitential act is essential as the initial step. "Remission of a censure cannot be granted unless the offender has withdrawn from contumacy according to the norm of can. 1347, §2; it cannot be denied, however, to a person who withdraws from contumacy" (Can. 1358 §1).

In consequence of such repentance, in second place, there can follow the official act by which the excommunication is lifted, provided all other required conditions are fulfilled. Only then can negotiations

[2]Quotations from the Code of Canon Law (CIC) are taken from the online official Vatican translation, http://www.vatican.va/archive/ENG1104/_INDEX.HTM (accessed 7 October 2009).

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begin in order to clarify what ecclesiastical position the affected person might be granted. Thus the lifting of the excommunication requires the acknowledgement of guilt on the part of the returned penitent, who thereby shows repentance for his crime. The lifting of the excommunication means that in principle the penitent bishop has been restored to the community of the Church. But even after the lifting of the excommunication, the penitent bishop remains suspended from the exercise of any of the rights and functions corresponding to his consecration until these negotiations have been completed.

According to the decree of the Vatican Congregation for Bishops from 21 January 2009[3]—the very same congregation that had issued the original decree of excommunication—the initiative was taken by Bishop Bernard Fellay, Superior of the Society of Pius X writing also in the name of the other three bishops consecrated on 30 June 1988. In a letter of 15 December 2008 to Cardinal Dario Castrillon Hoyos, President of the Pontifical Commission *Ecclesia Dei* (a special commission responsible for dealing with the Traditionalists), Bishop Fellay requested the lifting of the excommunication which had been formally confirmed by decree of the Congregation of Bishops on 1 July 1988. The new decree of the Congregation from 21 January 2009 cites the letter of Bishop Fellay: "We continue firmly and resolute in our desire to remain Catholics and to put all our strength at the service of the Church of our Lord Jesus Christ, which is the Roman Catholic Church. We accept her teachings in a filial spirit. We firmly believe in the primacy of Peter and in his prerogatives, and for this reason the current situation causes us much suffering." The decree goes on to state that the Pope has decided, on the basis of this letter—and the obvious contacts preceding it—to lift the penalty of excommunication, to "spare no effort in exploring as yet unresolved questions through requisite discussions with the authorities of the Holy See in order to reach a prompt, full and satisfactory solution to the original problem." The decree closes with the expression of hope "that this step will be followed by the prompt attainment of full communion with the Church on the part of the whole Society of St. Pius X."

Allow me to make a clarification here. In the media and in many public comments, the lifting of the excommunication is assumed to mean the restoration of full communion with the Church. For this reason, I am glad that the Chairman of the German Bishops' Conference

[3]Congregation for Bishops, "Decree Remitting the Excommunication 'Latae Sententiae' of the Society of St Pius X" (21 January 2009), http://www.vatican.va/roman_curia/congregations/cbishops/documents/rc_con_cbishops_doc_20090121_remissione-scomunica_en.html (accessed 22 September 2009).

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immediately called attention to the need for further negotiations and for full recognition of the Second Vatican Council on the part of the four bishops as a *conditio sine qua non* for reestablishing communion. A similar statement was made by the French Episcopal Conference. It is my impression, however, that, in the public controversy which followed the lifting of the ban, this qualification has been lost sight of. Furthermore, as far as I can see, no one has as yet called attention to the essential condition for the lifting of an excommunication, namely the credible expression of repentance and the public confession of guilt.

II. The Historic Roots

a) The Internal Level of the Controversy

The internal layer of the controversy dates back to 1970. The Second Vatican Council (1962–65) had made a number of decisive position statements concerning freedom of religion, ecumenism, the dialogue with other religions, the relationship between the Pope and the bishops ("collegiality"), and had moved other matters like the general priesthood of the faithful into the limelight. Archbishop Marcel Lefebvre had taken part in the Council—there he belonged to the conservative faction of the bishops—and had initially accepted the decisions of the Council. Beginning in 1970, however, together with other traditionalists, he began to reject as heretical the decisions in favor of ecumenism, inter-religious dialogue, freedom of conscience and of religion, which had been made by the Council. After a number of futile conversations with Pope Paul VI, Lefebvre was suspended from office in 1976. Nevertheless, Rome continued to concern itself with him. By an indult of the Congregation of Rites in 1984, the Pius X Society was allowed, under certain specified conditions, to celebrate the Mass according to the traditional Tridentine Missal of 1962, which had been replaced by a new ritual in 1969, the so-called Mass of Paul VI (Traditionalists call it disparagingly the "New Mass"). In vain it was hoped that Lefebvre and his Pius X Society could in this way be reintegrated into the Church. Time and again, efforts at reintegration were made.

Conversations between Cardinal Joseph Ratzinger, then head of the Congregation of the Doctrine of the Faith, and Lefebvre resulted in 1988 in the drafting of an agreement, to which Lefebvre initially subscribed. However, the next day, he withdrew his signature.[4] Instead, on 30 June

[4]See *Aletheia*, no. 74 (20 April 2005), 2: "A joint statement was signed on 5 May, 1988 by Msgr. Lefebvre and Cardinal Ratzinger. It envisages the erection of the Pius X Fraternity as an apostolic community, the erection of a joint theological commission, and

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1988 in Ecône, Switzerland, he consecrated four priests of the Pius X Society to be bishops. In this way, he fell into schism and incurred the automatic excommunication of himself and the new bishops, which was officially confirmed by a decree of the Vatican Congregation of Bishops a few days later. The decree of the Congregation of Bishops names the consecration of the bishops as the reason for the excommunication.

To explain the grounds for the excommunication, Pope John Paul II published a *motu proprio* to accompany the excommunication decree. In the document he wrote: "The roots of this schismatic act can be discovered in an imperfect and contradictory notion of Tradition"—imperfect and contradictory because Lefebvre does not take into account the living character of Tradition about which "the Second Vatican council has taught most clearly that under the support of the Holy Spirit [it] develops progressively in the Church." There follows a warning to stand in fidelity to the Tradition and to reflect on how this Tradition has unfolded "from the Council of Nicaea up to Vatican II." "From this reflection, everyone should—in a repeated and effective manner—be convinced that the faith in truth develops and grows when false interpretations and arbitrary and irregular deletions in matters pertaining to doctrine, liturgy and morals are eliminated." Therein is expressed an explicit admission of an ongoing purification and unfolding of the Tradition. The theologians are called upon, to investigate more deeply this living process.[5] With these words, Pope John Paul II confirmed that the repositioning of the Church with respect to other Christian confessions, to other religions, and to the Church-State relationship has taken place under the guidance of the Holy Spirit, as the Council itself had declared (see in particular the preface to the Decree on Ecumenism *Unitas redintegratio,* DH 4185f). The carrying out of the episcopal consecrations brought about a schism. This was confirmed in the decree of the Congregation of Bishops. The heretical background of the schism is described by Pope John Paul II in his *motu proprio*. Both aspects are important.[6]

the consecration of a bishop who is a member of the Pius X Society" (http://www.aletheia.free.fr/-/2005/aletheia74.pdf, accessed 8 October 2009).

[5]John Paul II, Apostolic Letter *Ecclesia Dei (motu proprio)* (2 July 1988), in *Enchiridion symbolorum, definitionum et declarationum de rebus fidei et morum/Kompendium der Glaubensbekenntnisse und kirchlichen Lehrentscheidungen,* ed. Heinrich Denzinger and Peter Hünermann, 41st ed. (Freiburg: Herder, 2007) [hereafter DH], nos. 4822–4823.

[6]Why are both aspects important? In the discussion of the lifting of the excommunication, some canonists have argued (I call attention to the public stance taken by my friend and colleague Klaus Lüdicke, professor emeritus of the Catholic Theological Faculty in Münster) that the excommunication decree of the Congregation of Bishops speaks of a "schismatic act," but does not understand this expression in the sense of

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Why does the liturgical reform play such an important role in this conflict? The liturgical reform of the Second Vatican Council is a witness to the living development and purification of Tradition.[7] In the Church, at the same time, the maxim *lex credenda—lex orandi* (The rule of faith is the rule of prayer) prevails. The points incriminated by Lefebvre are clearly manifested in the revision of the liturgy by the Council. Let us take two examples from the new formulation of the Good Friday prayers.

Concerning the relationship to other Christian churches, in the old liturgy the invitation reads: "Let us also pray for the heretics and schismatics, that our God and Lord may withdraw from them all of their errors and call them back to the holy mother, the catholic and apostolic

canon 1364 in connection with canon 751, but rather takes note only of the episcopal consecration without papal authorization. Thereby, Lüdicke concludes that Pope Benedict can dispense from the excommunication thus imposed. This is possible, when it is not a matter of a truly schismatic act with heretical character. Against this position I would argue that the decree of excommunication did not inadvertently or merely coincidently speak of a "schismatic act," on the grounds that this expression was emphasized in the *motu proprio* of John Paul II. There the Pope likewise speaks of a schismatic act occasioned by the "boldest" departure from the notion of "living Tradition" taught by Vatican II. Therein is manifested the heretical basis of the schism. John Paul II names that fundamental teaching of Vatican II, which Lefebvre and his supporters reject and which is the source of all the other detailed positions which follow from this rejection. Thus it is indeed a matter of a true schism on the basis of heresy, which was sealed by the consecration of the four bishops (cf. can. 1371, 1358, 1347, 1341).

[7]When one compares the Latin formularies of the "Tridentine" Mass in the 1962 version with the new Mass of the liturgical reform, it becomes clear that the differences are minimal:

- in the act of penance at the beginning of the Mass, the psalm "Judica" has been eliminated;
- the prayers for the preparation of the Eucharistic gifts have been altered;
- the old Roman Canon has been retained unchanged.

On the positive side, a number of optional variations have been introduced.

- additional forms of the act of penance have been added to the traditional Confiteor;
- additional Eucharistic prayers have been introduced as options;
- the selection of readings at the Masses on Sundays, feast days, and ferial days has been greatly enriched:
- the central ecclesiastical seasons, Lent, Eastertide, etc. have been given greater emphasis over against saints' days with their ever recurring common formularies;
- instead of the single formulary in the old Missal for the Masses honoring the Blessed Virgin Mary, the new Missal offers a greater variety of Marian Mass-formularies:
- In the "Tridentine" Mass, there is no prescription that the priest must celebrate with his back to the congregation; likewise, in the reformed Mass, there is no prescription that the celebrant must face the people.

These are the most important divergences and agreements. According to the liturgical reform, any priest can use either the Latin or the vernacular version. Obviously he should respect the pastoral situation.

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Church." That was the prayer for the Protestants and Orthodox after the Council of Trent. In the new liturgy, by contrast, the invitatory prayer reads, "Let us pray for all the brothers and sisters who believe in Christ, that our Lord and God lead them on the way to truth and conduct them in the unity of the holy Church." And the ensuing collect-prayer reads, "Have mercy on your Christian community which is sanctified through the one baptism. Unite them in the true faith and bond them together with the band of love." This is not just a change in style; it means as well that the Catholic Church hereby acknowledges a common faith as starting point for our relating to the other churches and that we give witness to a common interest in the unity of faith. Full unity is not something already achieved, but rather we pray for it as a gift which God must confer.

Concerning the relationship to the Jews, the old invitatory read "Oremus et pro perfidies Judaeis . . .," that is, "We pray for the faithless Jews, that God may remove the covering of their heart, in order that they acknowledge Jesus Christ our Lord." And the subsequent collect says, "Almighty, eternal God, you have not cut off from your mercy the Jews, who refuse to believe in you. Hear our prayer, which we bring to you for the blindness of this people, that they may recognize the light of your wisdom and be liberated from the darkness." By contrast, the new liturgy reads, "Let us pray for the Jews, to whom God our Lord has spoken originally. May he uphold them in fidelity to his covenant and in the love of his name, in order that they may reach the goal to which God in his providence has destined them." In the following collect, it is prayed that this chosen People, who in the first place were elected to belong to God, may achieve the fullness of salvation. Likewise in the reformed liturgy, themes like freedom of conscience, freedom of religion, and the appreciation of the belief in God found in other religions (e.g. in Islam) have found also expression in the prayers of the Good Friday liturgy. These examples show that the new liturgy has not confined itself simply to modifying this or that ritual, but instead has set new theological accents.

b) The Level of the Church's "Foreign Relations"

Behind the theological arguments against freedom of religion, freedom of conscience, religious dialogue, and ecumenism stands the complex network of the political roots of the current conflict. From early in the 1970s, Lefebvre positioned himself and his Brotherhood clearly in the tradition of the *Action française*.

The *Action française* called itself Catholic; its leading members however were mostly atheists. They fought vehemently against the French Republic. In 1926, at the instigation of the Archbishop of

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Bordeaux, this movement, which presented itself as a Catholic laity organization to which priests also belonged, was condemned. At the beginning of 1939, after the election of Pope Pius XII, they submitted themselves to the Church and, during the German occupation, they supported the Pétain regime. The organization was dissolved in 1945 after France was liberated. Lefebvre's connection with this tradition was clearly revealed by his biography. During the 1920s, Lefebvre studied in Rome in the French College, which was under the direction of Henri Le Floch one of the main figures in the *Action française*. For this reason Le Floch was deposed by Pius XI. Nevertheless, like Cardinal Louis Billot, who in September 1927 was forced to renounce his cardinalate because of his defense of the *Action française*,[8] Le Floch profoundly influenced Lefebvre.[9] For the French Traditionalists, Lefebvre instituted a yearly pilgrimage to the grave of Pétain. For this reason, many former Pétain supporters and people from the circle surrounding the contemporary French Rightist Jean-Marie Le Pen are found to have close connections with the Pius X Society. For example, Paul Touvier[10] who as police chief in Lyon had played a crucial role in the deportation of French Jews under Pétain, was for a time hidden by members of the Pius X Society. For his cooperation with the Gestapo and SS during the occupation, Touvier was convicted in 1996 of crimes against humanity and sentenced to life imprisonment. After his death in prison in 1996, he was given a solemn public funeral by Philippe Laguérie, the Parisian pastor of the Lefebvre supporters, who eulogized Touvier as an outstanding sensitive personality.

Ironically, the same pastor Laguérie, who was well-practiced in the seizure of Parisian churches for the Traditionalists, was appointed pastor in Bordeaux, where he engineered the occupation of the historic Saint-Eloi church in 2002. In any case, in virtue of his criticism of the situation in the Society's seminary in Ecône in Switzerland, he soon became involved in a sharp conflict with Bishop Fellay, his superior, which resulted in his expulsion from the Society in 2004. With a number of sympathizers from the Society, he was reconciled with Rome on 8 September 2006 and was appointed General Superior of the newly founded "Institut du Bon Pasteur" (Institute of the Good Shepherd),[11]

[8]Article "Louis Billot" in *Wikipedia,* http://fr.wikipedia.org/wiki/Louis_Billot (accessed 10 March 2009).

[9]See Bernard Tissier de Mallerais, *Marcel Lefebvre* (Etampes: Editions Clovis, 2002).

[10]See the article "Paul Touvier" in *Wikipedia,* http://fr.wikipedia.org/wiki/Paul_Touvier (accessed 10 March 2009).

[11]See the article "Institute of the Good Shepherd" in *Wikipedia,* http://en.wikipedia.org/wiki/Institute_of_the_Good_Shepherd (accessed 11 March, 2009). See also the Institute's website: http://www.institutdubonpasteur.org/ (accessed on 11 March, 2009).

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approved by Pope Benedict XVI as a clerical society of apostolic life by papal right, meaning that it has been erected by papal authority and is answerable only to the Pope (through the Pontifical Commission *Ecclesia Dei*). Following a signed agreement with the Archbishop of Bordeaux, the uncanonical seizure of the Saint-Eloi church was regularized and erected as a "personal parish." Laguérie's society immediately proceeded to set up a traditionalist seminary in France and later one in Chile, which however was soon closed down again. The society also maintains a house in Rome.

Initially, the Cardinal Archbishop of Bordeaux, Jean-Pierre Richard, had protested against this settlement. The diocese had taken legal action against the group following the occupation of the Saint-Eloi church. In addition, Laguérie had publically supported the French Rightist politician Jean-Marie Le Pen in his bids for office. He worked with the Integrist newspaper *Pacte*, which had been convicted of "racial defamation" and "incitement of racial hatred."[12] Of all things, such a dubious figure was appointed by Rome to be the general superior of an institute of papal right and exempted, together with his institute and its seminaries, from the jurisdiction of the Archbishop of Bordeaux. Alfred Grosser commented on this event, writing, "Now the present Pope has approved the erection of the Institute of the Good Shepherd near Bordeaux, which is under the leadership of the most hard-line Traditionalists, and has accorded them the right to train and to ordain priests."[13]

When word of the impending approval of the traditional rite came out, Cardinal Jean-Marie Lustiger, whose mother had been murdered as a Jew in Auschwitz, joined the Archbishop of Bordeaux and another bishop in a trip to Rome to protest the setting up an extraordinary rite within the Roman Catholic Church with all its implications.

III. The Beginnings of the Current Crisis

What, one may ask, has led to the developments described above, in which Father Laguérie, a prominent figure in the Lefebvre movement, came to be reconciled with Rome and was named general superior of a papal institute with its own seminary? This development is not easy to comprehend.

[12]*Témoinage Chrétien,* no. 3122 (16 Sept. 2004) http://www.temoignagechretien.fr/journal/ar_article.php?num=3122&categ=Croire (accessed on 8 October 2009).

[13]Alfred Grosser, "Katholische Kirche in Frankreich," in *Religion und Laicité in Frankreich*, ed. Benedikt Kranemann and Myriam Wijlens, Erfurter Theologische Schriften 37 (Würzburg: Echter, 2009), 63.

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In 1988, when it became clear that Archbishop Lefebvre intended to risk going into schism by consecrating the four bishops, a small group of his supporters went to Rome to negotiate under what conditions they could remain in communion with Rome. Among this group were the people who in the first days of July 1988 would found the Society of St. Peter and the monks of the Traditionalist Abbey Le Barroux under Gérard Calvez. Their partners in the negotiations were Cardinal Joseph Ratzinger, Prefect of the Congregation of the Doctrine of Faith, and Cardinal Paul Augustin Mayer, former Archabbot of the Benedictine Order, who at that time was responsible for contacts with the Lefebvre group.

The declaration, which in 1988 was signed by those Lefebvre supporters who did not wish to go into schism, contained the following five points:

1. A promise of fidelity to the Catholic Church and the Pope in Rome, who is the head of the episcopal college;
2. A declaration of acceptance of paragraph 25 of the Second Vatican Council's Dogmatic Constitution *Lumen gentium* concerning the Church's Magisterium;
3. The commitment to avoid all polemic, to study and to communicate with the Holy See concerning those points taught by the Second Vatican Council or expressed in subsequent reforms that in the eyes of the signers are difficult to reconcile with the Tradition;
4. The recognition of the validity of the Mass and the sacraments, which, when celebrated with the proper intention, correspond to the rites of the *editiones typicae* which have been promulgated by Paul VI and John Paul II (this means the recognition of the validity of the administration of the sacraments and the celebration of the Mass according to the texts of the liturgical reform);
5. The promise to observe the general discipline of the Church and the laws of the Church, in particular those contained in the *Codex iuris canonici* of 1983, without prejudice to the special discipline accorded to the Fraternity through particular law.

On the basis of this declaration, the Priestly Fraternity of St. Peter (FSSP)[14] was founded as a clerical community of papal right and permission was given by Rome to establish a seminary in Wigratzbad/

[14]See the international website of this group: http://www.fssp.org/ (accessed 10 March, 2009).

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Allgäu in Germany.[15] This Fraternity is likewise exempted from the control of the bishops. Prior to his election as Pope, Cardinal Ratzinger visited this seminary. In 1988 the German Bishops' Conference, which had not been informed of the terms of the declaration of allegiance, refused unanimously (including Archbishop Johannes Dyba of Fulda) to accept priests trained at this seminary for pastoral work in their dioceses. On the basis of conversations with the first priests trained at this seminary, I personally know that they have branded the teaching on religious freedom as a heresy of the Second Vatican Council. The two young priests with whom I spoke related proudly that they had been ordained in Rome by Cardinal Mayer himself. In the account of the history of the Fraternity of St. Peter, the *motu proprio "Ecclesia Dei"* of John Paul II is cited and with it the understanding of Tradition according to the Second Vatican Council expressed in the *motu proprio* is affirmed. However, a formal recognition of Vatican II evidently never took place in the St. Peter Fraternity, which was founded on 18 July 1988 and officially raised to the status of a "clerical society of apostolic life according to papal right."

The Monastery of Saint Madeleine in Le Barroux, until then a part of the Lefebvre movement, was recognized by Rome in July 1988.[16] It was raised to the status of an abbey in 1989 and Dom Gérard Calvez was nominated by Rome as the first abbot on 18 July 1989 and consecrated by Cardinal Mayer. On the occasion of the consecration of the abbey church and of himself as abbot, Dom Calvez—for years connected with Jean Madiran, director of the extreme rightist journal *Présent* and with Bernard Anthony, a leading member of the Front national—wrote, "Providence has deigned that the consecration of our church coincides with the two-hundreth anniversary of the Revolution of 1789. We cannot avoid thinking that this represents a call to make reparations for the crimes and sacrileges committed by the Revolution—we are thinking of the burning of churches, the massacre of priests, the genocide committed in the Vendée, the execution of 210,000 civilians during the wars in Western France, among them the 4800 drowned in Nantes, the annihilation of a third of the population of the Vendée by the satanic minions—to say nothing of the 300,000 persons who died of cold and famine. *Above all, we call for reparations for the satanic destruction of the faith and of the works of faith, which were replaced by the human*

[15]See the seminary's website http://www.fssp.org/de/seminaireW.htm (accessed 10 March 2009).

[16]The following account is based on *Golias,* "L'info du jour," Webzine no. 15 (2 October 2009) and no. 27/28 (Fall 1991):114-119, http://wwwgolias-editions.fr/spip.php?article1939 (accessed * October 2009).

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rights without God, the evil effects of which can still be felt despite the passage of two hundred years." In the following years, similar foundations were made, one of them in Berlin in 2003.[17]

Already in 2005 the first conversations between Bishop Fellay and the newly elected Pope took place.[18] Evidently, Msgr. Fellay had imposed conditions which must precede the reconciliation of the Pius X Society, for the communiqué of 2006 cited above goes on to say: "The Fraternity of St. Pius X recalls on this occasion that it cannot accept any solution to the question of ecclesiastical communion in which the Tridentine Mass is reduced to a particular statute. The Mass according to the two thousand year history must have full and entire legal status: it is not merely a privilege reserved for a few; it is the right of all priests and of all the faithful of the universal Church. For this reason, the Pius Fraternity invites priests and faithful to unite in a campaign of prayer. This campaign has the goal of presenting Pope Benedict next October a million rosaries for the complete liberation of the traditional Mass."[19]

This demand was fulfilled already in 2006 with the founding of the Institute of the Good Shepherd with Laguérie as Superior General. In the Roman decree of erection, the new society of apostolic life is authorized to use the Tridentine Mass, the Roman Pontifical in the Tridentine version for the ordination of priests, and the Roman Breviary (all in the 1962 *editiones typicae*) as its own proper rite and not merely as a concessive privilege. In his communiqué of 2006, Fellay recalls the demand that this right be given to "all priests and faithful": they have a right to it. This demand was fulfilled in July 2007 by the creation of an "extraordinary rite" for the whole Church.

A further important aspect comes to light with the erection of the Bordeaux Institute. In the statutes approved by Rome, it is stated that the society is committed to "work for the establishment of the authenticity of the teaching" of the Church. This was stated by the General Superior at the presentation of the newly erected papal society.[20] In an official communiqué, he writes: "For the rest, every founding member personally confesses recognition of 'the authentic Magisterium' of the Holy See in 'a full allegiance to the infallible teaching office of the

[17]See also the list of communities of the St. Peter Fraternity, http://www.fssp.org/en/coordonnees.htm (accessed 8 October 2009).

[18]For the story of these negotiations, see the article "Society of St. Pius X," section "Negotiations with the Holy See" in *Wikipedia,* http://en.wikipedia.org/wiki/Society_of_St._Pius_X (accessed 10 March 2009).

[19]Communiqué de la Fraternité Sacerdotale Seint Pie X, 8 sept.2006, http://la.revue.item.free.fr/comunique_fspx.htm (accessed 8 October 2009).

[20]For the text of the article in *Le Figaro*, 12 Sept. 2006, see http://la.revue.item.free.fr/communique_figaro120906.htm (accessed 8 October 2009).

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Church (Statutes II §62).' In addition, the members are obliged, to the extent of their abilities, to make possible an authentic interpretation by an 'earnest and constructive criticism of the Second Vatican Council'."[21]

One needs to keep this prehistory in mind in order to understand the letter in which Bishop Fellay requested the lifting of the excommunication, which has been cited in the decree of the Congregation of Bishops lifting the excommunication. On 24 January 2009, Bishop Fellay informed his followers that, in this letter, he had also written to Cardinal Castrillon Hoyos: "We are prepared to subscribe to the creed with our blood, to subscribe to the *Oath against Modernism*, and to the *Profession of Faith of Pius IV*. We accept and make our own all the councils up to and including Vatican I. But in respect to Vatican II, we cannot avoid giving expression to our reservations. This council intended to be a council 'different from the other councils' (cf. the addresses of Popes John XXIII and Paul VI). In all this, we are convinced, that we must remain true to the line of action sketched out by our founder Archbishop Marcel Lefebvre, and we hope, that he will soon be rehabilitated."[22]

By way of explanation:

The *Oath against Modernism*, imposed by Pius X on 1 September, 1910, and rescinded by the Congregation of the Doctrine of the Faith in July, 1967, condemned all notions of revelation's historical character, of Holy Scripture's historical conditioning, and of the need for a corresponding historical exegesis of the dogmas, for example concerning the sacraments. In the ensuing years, these issues were taken up one after the other and worked through in various documents of the Magisterium (for example, in Pius XII's encyclical on biblical interpretation *Divino afflante spiritu*). Thus when someone in 2008 proclaims allegiance to the *Oath against Modernism* in this impassioned way, the full problematic of their position becomes evident, the position namely which Lefebvre with his rigid traditionalistic stance had called down and which John Paul II explicitly condemned as the grounds for Lefebvre's going into schism and heresy.

[21]See "Dialogue entre Rome et les traditionalistes, un premier acquis," http://la.revue.item.free.fr/communique_abbe_du_bonpasteur.htm (accessed 8 October 2009).

[22]Letter of the General Superior to all the faithful of the Priestly Society of St. Pius X (24 January, 2009), in Priesterbruderschaft S.Pius X, Mitteilungsblatt für den deutschen Sprachraum, no. 361 (Feb. 2009), no page no. For another English translation, see the SSPX website, http://www.fsspx.org/eng/index.htm (accessed 8 October 2009).

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The *Profession of Faith of Pius IV*, which Bishop Fellay likewise cites, summarizes the teachings of the Council of Trent. It is evident that, in this text, the ecumenical standpoint of the Second Vatican Council does not come to expression. Instead, this profession of faith concludes with the anathema sworn by the person professing this creed: "I condemn, reject, and anathematize everything that is contrary to those propositions, and all heresies without exception that have been condemned, rejected, and anathematized by the Church."[23]

When such determined statements stand out in the letter of Bishop Fellay requesting the lifting of the excommunication, the question arises: how was it possible that the Pope and the cardinals of the Curia dealing with the affair could arrive at the conclusion that a repentant change of heart prevails on the part of the four bishops?

This question becomes all the more pointed when one takes two further facts into consideration. In the bulletin of the excommunicated Pius Fraternity (2009, Nr 2) , the letter in which Bishop Fellay announces the lifting of the excommunication, one finds the following passage: "We express to the Holy Father our childlike gratitude for this act, which, well beyond the Priests' Society of St. Pius X, will be a blessing for the whole Church. Our Fraternity wishes to help the Pope more and more to apply the remedies for the current crisis, which is unparalleled in the past and which is shaking the present Catholic world. Pope John Paul described it as a condition of 'silent apostasy'. Going beyond this gratitude to the Holy Father and to all those who helped him to take this courageous step, we are gratified to note that the decree of 21 January declares that 'talks' with the Holy See are necessary—talks which will allow the Priests' Society of St. Pius X to lay out the fundamental doctrinal grounds, which in their view are at the source of the current difficulties of the Church."[24]

In the same bulletin, a sermon is reproduced, which Bishop Fellay preached on 26 October, 2008, in the Basilica of St. Pius X in Lourdes.[25] He speaks of the "closed battle-line" of the Pius Fraternity and the rosary crusade begun two years previously, to achieve the authorization of the "Holy Mass, the Mass of all ages." This "precondition"—as Fellay expressly calls it—has been fulfilled by the Holy Father. In this same

[23]English translation according to http://www.mostholyfamilymonastery.com/Profession_of_Catholic_Faith.html (accessed 10 March 2009).

[24]Priesterbruderschaft St. Pius X, Mitteilungsblatt für den deutschen Sprachraum Sprachraum, no. 361,(Feb. 2009), no page no. For another English translation of this press release, see the SSPX website, http://www.fsspx.org/eng/index.htm (accessed 8 October 2009).

[25]Priesterbruderschaft St. Pius X, Mitteilungsblatt für den deutschen Sprachraum, no. 361 (Feb.2009), 6-7.

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sermon, Msgr. Fellay proclaims a second "rosary crusade" to fulfill the "second precondition"—so literally—namely the abrogation of the excommunication decree. By way of justification, Bishop Fellay explains, "When we call for the withdrawal of this decree, then [we do so] for two reasons, which admittedly are not of equal importance. The first reason is less important in comparison to the second: As you know, the catchword 'excommunication' is often used by those whom we might call 'progressives' to avoid from the outset any discussion, in order not to hear or see the objective content of what we are burning to say in public. The essential questions, which we raise, they whisk from the table with the apodictic assertion, 'You are excommunicated!' The second reason for our calling for the withdrawal carries more weight. The excommunication did not so much effect the four persons excommunicated—or the six persons, if one includes the deceased Archbishop Lefebvre and Bishop de Castro Mayer. All the more did our founder incorporate and exemplify an attitude, Catholic to the core, that consisted of holding fast to the traditional deposit of faith, holding fast to that which has been entrusted by our Lord to the Church and handed down from generation to generation, namely the Tradition."

Accordingly, one comes to understand the meaning of a passage of the letter, in which Fellay announces the lifting of the excommunication to the faithful of the Fraternity Pius X: "Thanks to this gesture, the Catholics around the world, who are tied to this Tradition, will no longer in the future be unjustly ostracized and condemned, because they hold fast to the faith of their fathers. The Catholic Tradition is no longer excommunicated. Although this was never the case *in principle*, so was it often and in cruel manner *de facto* the case. In the same way, the Tridentine Mass was never abrogated *in principle*, as the Holy Father happily made clear in his *motu proprio* '*Summorum Pontificum'* from 7 July, 2007."[26]

Correspondingly, the General Superior of the Papal Society of the Good Shepherd declared in a communiqué, "The members of the Society of the Good Shepherd are overjoyed at the lifting of the excommunication. . . We are convinced that the process of reconciliation of Catholics with each other is now unavoidable. Thanks to the hermeneutical instrument offered us by Pope Benedict XVI, namely the rule that the teaching of the Second Vatican Council must be interpreted in continuity with the teaching of all the other councils, the coming talks between those responsible for the Pius Fraternity and the Roman authorities leave no more place for fundamental obstacles. The courage

[26]Letter of the General Superior (24 January 2009).

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of Msgr. Lefebvre finds in the present situation an act of post mortem homage offered up by his successor."

What is the balance to be drawn from all these texts?

IV. The Core Theological Problematic of the Current Crisis

The lifting of the excommunication, which had its foundation in the schismatic-heretical character of an episcopal consecration without papal mandate, can only take place on the basis of a substantially repentant request. The letter of Bishop Fellay not only reconfirms the position of Lefebvre but also emphatically repeats it in the impassionate commitment to subscribe "with their blood" to the *Oath against Modernism* and the *Profession of Faith of Pius IV*. The meaning of this statement must be clear to everyone, the Pope and the responsible cardinals included. The negotiations, which have been dragging on since 1970, continue to circle around one and the same point, the rejection of the historicity of the Tradition.

The further quotations of Bishop Fellay, issued both before and after the lifting of the excommunication, manifest one and the same tenor: they confirm that in no way whatsoever has a change of heart taken place here. On 29 January 2009, the four bishops wrote a statement of gratitude to Benedict XVI: "We wish as quickly as possible to commence an exchange with the representatives of Your Holiness concerning those teachings which are in opposition to the timeless Magisterium. . . . We hope, in this still necessary way, to help the Holy See to fetch the appropriate remedies against the loss of faith within the Church."[27] The earlier papal approbation of the statutes of the Society of the Good Shepherd is a foretaste of what is in store for the Pius Fraternity.

The lifting of the excommunication thus represents an act which marks a grave defect of office. In principle it accords communion to the leading bishops of the Pius Fraternity without their fulfilling the canonical preconditions, namely the revocation of a heretically motivated schism—albeit without further stipulating what status they will have in the Church. For the time being, at least, the suspension from office remains in force.

This official defect is a serious failure of office, for it signifies a dispensation from the full acceptance of the Second Vatican Council. The

[27]Cited according to *La Croix*,4 March 2009, http://www.la-croix.com/article/index.jsp?docId=2366614&rubId=4078 (accessed 8 October 2009)

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disavowal of important teachings of Vatican II is clearly expressed in the petition of Bishop Fellay.

This grave official defect concerns *fides et mores*, faith and morals, the defense of which is committed to the successor of Peter in a special manner for the universal Church.

This assessment comprises three aspects:

(a) The Ecclesiological-canonical Aspect

According to the rules of canon law, when lifting an excommunication, the Pope can indeed—though he ordinarily should not—dispense from the condition of contumacy, that is, stubborn resistance to authority. In the present case, however, more than that has occurred. Without a foregoing contrite confession of guilt and recognition of the Second Vatican Council on the part of the culprits, the Pope may not abrogate a ban of excommunication incurred as a result of an illegitimate episcopal consecration with a heretical-schismatic motivation and root. For the Pope and the cardinals, just like every other member of the faithful, are bound by valid and received councils and what they have determined. The Pope's hope that such a recognition of the Council may occur in the future is not, according to canon law, sufficient grounds for such a dispensation.

(b) The Ecclesiological-theological Aspect

Archbishop Lefebvre and Bishop Fellay did not take offence merely at this or that formality of the Second Vatican Council. What was and is at stake for them are not bagatelles in the conciliar texts, but rather essential determinations of the understanding of the Faith and of the Church that the Council laid down as binding. Official websites of the Pius Society accessed recently corroborate their position that religious freedom and a whole list of other pronouncements of the Second Vatican Council contradict the *Syllabus of Errors* issued by Pius IX. The same holds for the Vatican Council's *Decree on Ecumenism*: "Protestants and other Non-Catholics do not have the faith."[28] These utterances reveal the importance attached to Bishop Fellay's statement, in his announcement of the lifting of the excommunication, in favor of the *Antimodernist Oath* and the *Tridentine Profession of Faith*.

Among other things, the statements of the Second Vatican Council concern God's revelation in its historically conditioned stages and

[28]Cited from the SSPX (US) website in Robert Mickens, "Benedict's High-Risk Strategy," *The Tablet*, 31 Jan. 2009, 4–5, at 5; also at http://www.thetablet.co.uk/article/12612 (accessed 8 October 2009).

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forms, the Bible and its understanding, the insights into basis of ecumenism and the ecclesiology of the People of God that derive from the mystery of the Church, and the relationship to other religions and to modern society. None these statements are formulated in the form of dogmas. Indeed, I do not believe that it is possible to compress such a highly complex problematic into ten or fifteen canons with appended anathemas. Nevertheless, what is at stake are *essential* assertions, which for the Church in the historical situation of the modern world cannot be circumvented. These essential determinations have been deliberated upon in detail and discussed in terms of the objections and difficulties raised. They are the expression of a consensus which has its origin in the invocation of the Holy Spirit, in listening to Scripture, in the sharing in the Eucharist, in the prayer and reflection of the council fathers. From time immemorial, the Church has believed that, in such a consensus, the voice of the Spirit of God can be heard. Suspension of this consensus means the refusal of what the Spirit is saying through the community. How essential these points are can be seen immediately when one attempts to delete them from the life of the Church today. Can a Pope dispense from the acceptance of such essential theological facts as the prerequisite for the lifting of an excommunication grounded on heresy? The answer is an emphatic No.

(c) The Ecclesiological-moral-theological Aspect

These two aspects of the central issue pertaining to *fides* (faith) are joined in the present case to an immediately entwined third aspect pertaining to *mores* (morals). It is no accident that under the four bishops a notorious longtime anti-Semite and Holocaust-denier is to be found. A person who, in any way, denies or makes light of the outrageous and monstrous genocidal attempt to wipe out the Jewish People is a public sinner. Such a public sinner cannot, without an unequivocal sign of repentance and change of heart manifested in his conduct of life, be admitted to the sacrament of Penance, with which the lifting of the excommunication may also be linked. It does not suffice merely to pay lip service. When on 4 February 2009 the Cardinal Secretary of State called for a speedy declaration of revocation on the part of Bishop Richard Williamson in order to include him in lifting of the excommunication, this sounds like a farce and a public disregard for the current order of penance.

V. The Consequences

The lifting of the excommunication represents an exercise of the Pope's office which in grave manner offends against *fides et mores*,

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against faith and morals. This decision is, in my opinion, null [*nichtig*] already in virtue of canon 126: "An act placed out of ignorance or out of error concerning something which constitutes its substance or which amounts to a condition *sine qua non* is invalid."

In the face of the full reality of the situation, the leading article of the *Osservatore Romano* from 26/27 January 2009—with its bitter complaint about the unjustified attacks on the Pope and its pious claim that the decision of the Pope is "inspired by the new style in the Church, which the Council had desired, namely to apply the medicine of mercy rather than that of condemnation"—appears naïve in view of the facts. The Pope himself appears not to appreciate the consequences of his long-range actions which culminated in the controversial recent decision: thus, in the general audience[29] he declared that he had simply acted out of mercy and that he personally abominates the Shoah. Of equally little effect is the challenge to Bishop Williamson to repudiate his Regensburg statements.

The fundamental problem behind the current crisis is not the slipshod way in which the curia worked or the isolated facts that an older cardinal responsible for this work was helplessly out of his depths, that insufficient communication took place, and that we have to do with a pontiff, who tends to make lonely decisions. All of that is regrettable, because here it is a matter of far reaching decisions having serious consequences. But that fails to touch the core of the problem: at stake is not just the anti-Semitism of Bishop Williamson, as evil and disgusting as it may be. The core of the problem is by far one of a theological nature having ecclesiological-canonical, ecclesiological-theological, and ecclesiological-moral-theological aspects.

Through his exercise of his office, the Pope has profoundly shaken the trust of the faithful in the Petrine ministry of witnessing to *fides et mores*, to faith and morals. At the same time, by his decision, he brings the Church into the perilous position of admitting bishops and priests in the Church now and having bishops and priests educated in the Church in the future who do not stand for the faith and morals of the Catholic Church.

The Pope cannot make the authentic interpretation of the Second Vatican Council depend on negotiations with a schismatic and heretical group. Accordingly, a dark shadow falls on a number of "authentic explanations" of the Congregation of the Faith regarding the interpretation of Vatican II.

[29]See Benedetto XVI, Udienza generale, Aula Paolo VI, Mercoledì,28 gennaio 2009, Libreria Edit. Vaticana p. 4.

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To this situation affecting the Pope's discharge of his office, there is a second side as well. Shortly after taking office, Pope Benedict XVI, in the usual Christmas address to the Roman Curia for the year 2005, set forth the way he understands and interprets the Second Vatican Council. Under the catchwords "hermeneutic of discontinuity and rupture" versus "hermeneutic of reform," he expressly calls attention to the underlying problematic. In the section on the hermeneutic of reform he emphasizes that, both before and after the Council, the one Church exists with its faith-given identity. He explains the changes which have occurred in the modern world which made it necessary for the Church borne up by faith to re-position itself: "The Second Vatican Council, with its new definition of the relationship between the faith of the Church and certain essential elements of modern thought, has reviewed or even corrected certain historical decisions, but in this apparent discontinuity it has actually preserved and deepened her inmost nature and true identity."[30] The Pope explains this position in detail with regard to the example of religious freedom. He describes the earlier position and contrasts it with the modern situation: "Basic decisions, therefore, continue to be well-grounded, whereas the way they are applied to new contexts can change. Thus, for example, if religious freedom were to be considered an expression of the human inability to discover the truth and thus become a canonization of relativism, then this social and historical necessity is raised inappropriately to the metaphysical level and thus stripped of its true meaning. Consequently, it cannot be accepted by those who believe that the human person is capable of knowing the truth about God and, on the basis of the inner dignity of the truth, is bound to this knowledge. It is quite different, on the other hand, to perceive religious freedom as a need that derives from human coexistence, or indeed, as an intrinsic consequence of the truth that cannot be externally imposed but that the person must adopt only through the process of conviction. The Second Vatican Council, recognizing and making its own an essential principle of the modern State with the Decree on Religious Freedom, has recovered the deepest patrimony of the Church. By so doing she can be conscious of being in full harmony with the teaching of Jesus himself (cf. Mt 22: 21), as well as with the Church of the martyrs of all time."[31] One cannot help but agree with this presentation.

[30]*Acta Apostolicae Sedis* 98 (2006): 51; "Address of His Holiness Benedict XVI to the Roman Curia Offering Them his Christmas Greetings," http://www.vatican.va/holy_father/benedict_xvi/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia_en.html (accessed 9 October 2009).

[31]Ibid.

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What is disturbing, however, is the fact that in the section on the hermeneutic of discontinuity, Benedict XVI makes no mention of the Traditionalists, but refers only to those who appeal to the spirit of the council but pay little heed to the text, claiming "that the texts of the Council as such do not yet express the true spirit of the Council. It claims that they are the result of compromises in which, to reach unanimity, it was found necessary to keep and reconfirm many old things that are now pointless. However, the true spirit of the Council is not to be found in these compromises but instead in the impulses toward the new that are contained in the texts."[32] Thus the maxim of such people is "it would be necessary not to follow the texts of the Council but its spirit."[33] This text shows that Benedict XVI indeed affirms the Council, but he sees the dangers for the reception of the Council only on the so-called "progressive" side.

This Pope is not somebody who would consciously deny or misinterpret the Second Vatican Council. He is not someone who is unable to meditate and speak profoundly about the faith, not someone who does not devote all his strength to the Gospel. With very good reason, Cardinal Walter Kasper, Bishop Kurt Koch of Basel, and other bishops insist that the Pope stands for Vatican II. Bishop Koch in his pastoral letter at the beginning of the penitential season 2009 cites a long list of Pope Benedict's avowals of the Council.[34] All this is beyond controversy. But, in the 2005 address quoted above, it becomes clear: the Pope sees the crisis of acceptance of the Church in the modern world and is convinced that *the* future of the Church lies in the recovery of the outright traditionalist circles.

VI. To Sum Up

In my opinion—*salvo meliori iudicio* as I wish to emphasize—we have to do here with a scandalous defect of office in the theological sense. What is the way out of this crisis? There is no court of justice that can call the Pope to account like some ordinary civil official and pass sentence on him. The same holds for an incumbent head of state in many countries. This is not a case of heresy; in that case, the College of Cardinals would be authorized to declare that we no longer have a Pope, for by falling into heresy, the Pope automatically and *ipso facto* loses his office. There have been enough scandalous defects in the exercise

[32]Ibid.
[33]Ibid.
[34]Kurt Koch, "Brief des Bischofs an die Gläubigen" (6 February 2009), http://www.bistum-basel.ch/seite.php?na=1,1,0,110870,d (accessed 9 October 2009).

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of office in the Church, not least in the exercise of the papal office. The resolution of such crises was for the most part very arduous and difficult. In the present case, it is especially difficult, because a number of cardinals and bishops have known and collaborated in this development since 1988. Thus the present situation places extraordinary demands on soberness, humility, and the abnegation of all forms of self-seeking and striving for power on the part of all the persons concerned. In short, what is called for is an honest self-examination in the spirit of the Gospel. This challenge is made to the whole People of God, to all the faithful, including the Pope, the cardinals, the episcopal conferences, the pastors, priests, and deacons and all pastoral collaborators.

a) Only when the defect of office violating the faith and morals of the Church is publicly avowed and corrected can the Church, the Pope, the cardinals, and the bishops regain their public freedom of operation. A Pope who lets schismatic and heretical groups dictate conditions for himself and his coworkers is simply not free. If Rome tries to ignore this fact, then the impression is unavoidable that the Roman authorities have reacted only under outside pressure and are marionettes of public opinion and the media. Traditionalist circles have already taken up position in this way.
b) The conclusion that the decision made to lift the excommunication is null and void is unavoidable. A negative demarcation appears in the making. It does not suffice that Cardinal Giovanni Battista Re, who signed the decree lifting the penalty, alone declare this nullity; the Pope himself publically declared that the decision was his own.
c) The second question, which immediately proceeds from the first, concerns the way out of the crisis, the step-by-step repair of the damages done, in particular the restoration of confidence in the Church, not only in the world but also within the Church itself. The Church confronts an enormous heap of broken crockery.

The correct decisions in this grave situation demand much prayer, repentance at all levels, and above all the support of the Holy Spirit and his Seven Gifts. The concrete steps for the self-purgation of the Church will not be easy.

The letter to the bishops, which Pope Benedict XVI published on 11 March 2009, fails to resolve the problem sketched above. The Holy Father confirms, on the one hand that "the excommunication affects individuals, not institutions. An episcopal ordination lacking a pontifical mandate raises the danger of a schism, since it jeopardizes the unity

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of the College of Bishops with the Pope. Consequently the Church must react by employing her most severe punishment—excommunication—with the aim of calling those thus punished to repent and to return to unity. Twenty years after the ordinations, this goal has sadly not yet been attained."[35]

On the other hand, he states, "The remission of the excommunication has the same aim as that of the punishment: namely, to invite the four bishops once more to return. This gesture was possible once the interested parties had expressed their recognition in principle of the Pope and his authority as Pastor, albeit with some reservations in the area of obedience to his doctrinal authority and to the authority of the Council."[36]

Here it is stated explicitly that the excommunicated bishops, just like Archbishop Lefebvre himself twenty years before, still do not accept the Council and thus continue to question the authority of the Pope and bishops in numerous points of detail. It is simply not evident how, in such a situation which in no way differs from the original situation, the idea of lifting the excommunication could arise. Archbishop Lefebvre had never himself rejected the Petrine office in principle. For him too, a fundamental recognition of the Pope and his pastoral office was never called into question; however, he made well known exceptions for the specific points detailed above.

Benedict XVI then goes on in his letter to state, "The remission of the excommunication was a measure taken in the field of ecclesiastical discipline: the individuals were freed from the burden of conscience constituted by the most serious of ecclesiastical penalties. This disciplinary level needs to be distinguished from the doctrinal level. The fact that the Society of Saint Pius X does not possess a canonical status in the Church is not, in the end, based on disciplinary but on doctrinal reasons. . . . until the doctrinal questions are clarified, the Society has no canonical status in the Church."[37] Here Pope Benedict clearly separates the excommunication as a disciplinary measure from the "doctrinal level." From the texts quoted above, however, I am convinced that the excommunication was originally imposed on doctrinal grounds. The illegitimate episcopal consecration made it possible for Archbishop Lefebvre to prolong his doctrinal opposition to the Second Vatican Council beyond his own death up to the present day. But the letter of

[35]Cited according to *Times Online*, 12 March 2009, http://www.timesonline.co.uk/tol/comment/faith/article5897021.ece (accessed 13 March 2009).

[36]Ibid.

[37]Ibid.

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Benedict XVI fails to take into account the connection between these two moments: the disciplinary level und the doctrinal level.

Allow me, please, a final personal word: I have dared to publish this paper not out of an all-knowing hindsight or out of ambition or out of schoolmasterly delusions of infallibility; but rather I have taken this position in the service of my responsibility as a theologian for the People of God and my duty to give public account for the faith. In crises and confused cases like the present one, it is the duty of the theologian to analyze the situation and put the diverse aspects in order. I hope that through these expositions it has become clear to you what God's revelation through Jesus Christ and the community of the faithful, the Church, means to me. I hope it is clear that I am firmly committed to the inalienable Petrine ministry of the Bishop of Rome and that, full of hope, I am under way with the whole People of God on their pilgrimage, time and again buffeted by temptations and time and again falling into sin. Permit me to add that I have prayed much in these last days for the Pope as my brother.

FOUR REACTIONS

I

The question that my friend Professor Hünermann is raising concerns the interpretation of the act of the withdrawal by Benedict XVI of the excommunication of the four bishops of the Fraternity of Pius X.

The decree of withdrawal dated January 21, 2009, was signed by Cardinal Giovanni Battista Re, Prefect of the Congregation for Bishops, explicitly authorized (delegated) by Benedict XVI. The normative part of the decree is in its last paragraph:

> On the basis of the powers expressly granted to me by the Holy Father Benedict XVI, by virtue of the present Decree I remit the penalty of excommunication *latae sententiae* incurred by Bishops Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson and Alfonso de Galarreta, and declared by this Congregation on July 1 1988. At the same time I declare that, as of today's date, the Decree issued at that time no longer has juridical effect.[1]

[1]Congregation for Bishops, "Decree Remitting the Excommunication 'Latae Sententiae' of the Bishops of the Society of St. Pius X" (21 January 2009), http://www.vatican.va/roman_curia/congregations/cbishops/documents/rc_con_cbishops_doc_20090121_remissione-scomunica_en.html (accessed 18 September 2009).

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Before proposing any interpretation, a few cautionary remarks are necessary:

- An inquiry in the realm of theology should be distinguished from one in the realm of law. The former is concerned with the "ontological" as perceived through faith and proceeds by asking *what is;* the latter is focused on a norm of action and asks *what ought to be done (or omitted).* Thus, in the ontological order a breach of communion with the church may exist consistently as a delict, while the penalties for it may be created, imposed, or remitted according to the applicable laws or ordinances.
- We do not have preexisting norms or judicial precedents to guide us, certainly not from modern times; hence no matter what conclusion we may reach, it will be an opinion without corroboration from historical sources or other "authorities."
- In canon law the authentic interpreter of the effective meaning of a norm is the legislator or one authorized by him (Canon 16 §1). Analogously, or rather *a fortiori,* the authentic interpreter of an administrative decree must be the person who issued it, or his delegate. In this case, therefore, the authentic (juridically effective) interpretation of the decree is reserved to the pope or presumably to Cardinal Re as "commissioned" by the pope. An academic interpreter cannot do more than to offer a judgment that is consistent with the known facts and the relevant norms of jurisprudence.

Keeping these provisos in mind, let us return to our question: what is the nature (what is the standing) *in the realm of the law* of the act of the withdrawal of the penalty of excommunication?

The answer seems inescapable: if the pope established by general law a penalty for a crime, he has the power to annul it in an individual case.

Some clarifications are in order.

(1) While there is a legitimate dispute as to how far a legislator is, or is not, bound by his own laws, there is no doubt in canon law that the pope has the authority to overrule his own general norm in disciplinary matters where no divine law or precept is involved. It follows that he has the power to annul in a particular case a penalty attached to a delict by general legislation.

(2) Because a given canonical penalty is entirely the creation of the legislator, its existence or removal is not connected intrinsically with the internal disposition of the alleged delinquent; such as his good or bad intention, his contrite or obstinate spirit.

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In canon law, therefore, the withdrawal of the penalty was a valid pontifical act. An alternative conclusion is hardly conceivable; *no court, no other authority, can hold for excommunicated the four bish ops for the delict of irregular ordination.*

The case of four bishops, however, is not concluded because beyond the merely legal issue of the sanction, there is the ontological/theological issue of the state of the mind (state of the spirit, intention) of the perpetrators of the act. Minimally, an irregular ordination is the sign of well-planned disobedience crying out for judicial condemnation and necessary reparation. But as the careful analysis of Professor Hünermann shows, in the case of the four bishops the circumstances of the ordination seem to signal the previous existence of an intentional radical break of communion with the See of Peter, and, of course, with the entire college of the Catholic bishops. If the Professor is correct (as I think he is), the four receivers of the sacrament were in the state of schism before the reception of the orders, and they remained so ever since. No evidence exists that they would have repented or that they would be ready to satisfy the conditions necessary for full communion with the See of Rome and the College of Bishops. It follows that Canon 1364 §1 is applicable: the four bishops remain excommunicated *latae sententiae* for the delict of schism.

Because this is a rare, complex, and unique case, it is fair and just that I should terminate my reflections with the classical disclaimer: *salvo meliori iudicio*: if there is a better judgment, let it prevail!

Georgetown University Law Center LADISLAUS ORSY

II

Pope Benedict XVI's decision on January 21, 2009 to remit the public declaration of excommunication of the four bishops of the Fraternity of Saint Pius X (*Fraternitas Sacerdotalis Sancti Pii X*) has caused considerable bewilderment. The Pope hoped thereby that the members of the Fraternity under the leadership of Bishop Bernard Fellay would eventually return to full communion with the church. After Bishop Richard Williamson's vigorous denial of the Holocaust became an internet sensation, Benedict's action appeared more as an occasion for scandal than as a gesture of grace. Even though Williamson's YouTube clips did not reach the number of hits that the singer Susan Boyle would achieve a couple of months later, his denials of the Holocaust and his arguments that women should not attend universities brought into broad public and international consciousness the anti-Semitic and

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sexist tendencies within the Fraternity. These and similar tendencies were known to anyone familiar with the Fraternity, but now they were available for all to see with the simple click of a mouse.[1]

The Vatican's responses were at first minimal. They acknowledged that they failed to do research adequately on the internet and that they had failed to explain the meaning of the Pope's action. The first response gave the less-than-credible impression that if only the Vatican officials had learned how to "google" they would have been aware of Williamson's anti-holocaust comments and, if they had known, the public declaration of excommunication might not have been remitted. The second response goes in a different direction; they had failed to explain that the Pope's action was very limited. If people only had understood that it did not entail a *de facto* reconciliation of the Fraternity with the Roman Catholic Church—the remission affected its members as individuals—then no scandal would have resulted from it. On March 10, 2009, Pope Benedict wrote a letter to all the Bishops of the Roman Catholic Church in which he repeats this basic response. In addition, he also expresses a certain disappointment and hurt that his actions seem to have occasioned a certain animosity toward himself.

Peter Hünermann's multifaceted analysis shows the inadequacy of such a response. Moreover, by giving the background of the case and by analyzing its canonical import, he shows its broader theological implications. He specifically questions whether the public declaration of excommunication can be remitted when there is no prior repentance for what led to its declaration. Therefore, he suggests that the Benedict XVI has acted improperly. The technical canonical aspects of his argument I leave to the responses by the canonists. What is obvious, however, is that subsequent events appear to confirm the basic point of Hünermann's essay. Fellay has recently affirmed that the Vatican approached the Fraternity rather than the opposite. Moreover, in June of this year, the Fraternity went ahead and ordained more priests despite the Pope's expressed wish to the contrary. These actions reinforce Hünermann's point about repentance.

My response to Hünermann's essay will touch upon three issues: (1) the relation between Benedict XVI's pastoral intent and his view of the relation between leadership and people; (2) the relation between the "malaise" within the current church and the event of Vatican II;

[1]For an analysis of the Fraternity against the background of restorative French Catholic movements, see Wilhelm Damberg, "Die Priestersbruderschaft Pius X (FSSPX) und ihr politisch-geistesgeschlichtlicher Hintergrund," in Peter Hünermann, ed. *Exkommunikation oder Kommunkation: Der Weg der Kirche nach dem II. Vatikanum,* Quaestiones Disputatae 236 (Freiburg: Herder, 2009), 69–121.

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(3) the binding theological significance of Vatican II for Roman Catholics. These reflections have different intents. The first aims to express an appreciation for the Pope's pastoral intent and purpose, but the second and third reinforce the basic direction of Professor Hünermann's essay.

Ratzinger's Pastoral Intent and Metaphor of the Church

The very first seminar that I took with Joseph Ratzinger was on the Constitution on the Church. In response to a critical paper by a student (a German who later became a well-known professor) criticizing the use of scripture and the models of the church in the Constitution, he joked that someone in Rome suggested that perhaps the image that best describes the church as it really is one of a "flock of sheep." Everyone laughed. But I have often thought back on that incident whenever I read his use of the image of sheep. In his writings he uses this image to discuss the relation between the faithful and theological leadership. He refers to a painting in the Romanesque cathedral of Troia that depicts a lamb caught in the claws of a lion, its body torn open by the lion's teeth with bits of flesh already partially eaten, yet still alive. A third animal in the painting is a small white dog. The painting refers to the struggle between the church and imperial power during the time of the Hohenstaufens, as Ratzinger himself notes, but instead he offers an allegorical interpretation: the sheep represent the Christian faithful, whereas the lion and the white dog represent the theologians, preachers, or pastors in the church. They represent two directions in which leadership in the church can take. They can either destroy the faith or they can serve the faith.[2]

This image of the church has the faithful as innocent sheep that are either preyed upon or defended by those in leadership positions. Ratzinger's contrast here and elsewhere is between the innocent faithful of the church and the "lions" often acting as stand-ins for the "critical" or "liberal" theologians who have led them astray. It seems, however, that the leadership of the Pius X Fraternity can also be seen as "lions." But what is important is that the Pius X Fraternity has two and a half million members. Hence any action toward the bishops whom Archbishop Marcel Lefebvre had consecrated in 1988 should be seen in the context of the two and a half million followers. From this perspective, Pope Benedict XVI's move toward reconciliation is understandable. The same applies to his permission to celebrate the Latin Tridentine Mass as an extraordinary rite. This permission was immediately followed by a question-and-answer from the Congregation for the Doctrine

[2]Joseph Cardinal Ratzinger, *The Nature and Mission of Theology: Essays to Orient Theology in Today's Debates,* trans. Adrian Walker (San Francisco: Ignatius, 1995), 69–72.

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of the Faith pointing out the importance of alliance to the Pope for membership in the Church of Christ. Although this statement caused consternation among many in the ecumenical movement, it was clear from its context that it was directed primarily toward the Fraternity. The Latin Tridentine mass was re-instated at the same time as allegiance to the Pope was re-affirmed. I often think how my own parents were upset by Vatican II. My mother would complain that the singing during Mass interfered with her praying the rosary and my father was upset with the abolition of abstinence on Friday, not to mention the removal of St. Christopher from the list of saints in the years following the Council. (I still keep as a memento the medal that adorned his auto.) I often wonder whether in a different situation and under different local ecclesial leadership, my parents and even the local parish could have been seduced and influenced by the Pius X Fraternity. It is, therefore, with considerable sympathy and understanding that I appreciate Benedict's pastoral intent.

Malaise in the Current Church and Vatican II

Pope John XXIII invocation of Vatican II was met with high degree of excitement and optimism. In the decades since Vatican II, the church has undergone significant changes. The decrease in church attendance, the less frequent reception of the sacraments, and the scarcity in the number of religious vocations are all too obvious. How does one interpret these changes? What has caused or influenced them? For Bishop Fellay the answer is simple. In an interview with *Le Courier* he has said that the Second Vatican Council has caused the Church "only damages." In his own words: "The aftermath of the Council has been to empty seminaries, nunneries and churches. Thousands of priests have left their orders and millions of faithful have stopped being practicing Catholics and have joined sects."[3] It is obvious to Fellay and the Fraternity of St. Pius X that the Second Vatican Council is responsible for these changes or "damages."

Unfortunately such a viewpoint overlooks the broader context in which the changes have taken place. Historians and sociologists have given another interpretation. They point to the changes that have taken place in society and culture that go back to the 1950s. They suggest that one can clearly trace some the changes in ways that predate Vatican II. Therefore, they argue that Vatican II did not cause these changes; they

[3]Tom McFeely, "Bishop Fellay Rejects Vatican II," *National Catholic Register*, February 27, 2009, http://www.ncregister.com/daily/bishop_fellay_rejects_vatican_ii/ (accessed August 15, 2009).

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are due rather to a cultural shift prior to Vatican II. The change in the post-World War II situation of some European countries and in North America has been described as an "erosion of a milieu." Wilhelm Damberg's uses this term to express the ways in which the communication structures of Catholicism have changed since the 1950s—a change that began prior to Vatican II. Several aspects of this transition are present in the United States and in some European countries where Catholicism had been a minority group with a special and somewhat separate culture. Several elements contribute to this transition. One is the change in the culture of media and the widespread influence of modern media and communication. Another is the transition from ethnic enclaves in cities to the suburbs in the U.S. and the occurrence of urbanization in Germany. The strict cultural identity of Catholic groups has become radically transformed. One illustration of this change stems from interfaith marriage statistics, if one compares marriages between Roman Catholics and other faiths in the 1940s with the 1990s. What was once rare has become increasingly frequent, if not predominant. These changes have impact the religious identity of Roman Catholics within the U.S. and in Europe.[4] Using this model, one can show that the effects to which Fellay and others appeal in order to demonstrate the "damage" caused by Vatican II stem from societal and cultural changes that began prior to Vatican II, rather than from the Council itself.[5]

How does Pope Benedict XVI interpret the relation between Vatican II and the situation of the church today? His writings have tended to bypass a consideration of the technological, societal, cultural factors that might have led to changes and to have focused instead on the theological reception of Vatican II. In some of his writings from around a decade after the council he sought to point out that there were two different types of errors, the liberal Dutch reception and the Latin American liberation theological reception. In this contrast, he points out that the latter represents a criticism of the modern European liberal West that Europeans should take into account. Therefore, Hünermann's observation that Ratzinger criticizes more the liberal reception of the council than the conservative reception is clearly correct. He makes the astonishing statement that success of Vatican II is an open question. Not all

[4]See William Damberg, "Entwicklungslinien des europäischen Katholizismus im 20. Jahrhundert," *Journal of Modern European History* 3, no. 2 (2005): 164–82, as well as the volume he co-edited with Antonius Liedhegener, *Katholiken in den USA und Deutschland: Kirche, Gesellschaft und Politik* (Münster: Aschendorff, 2006).

[5]For the concrete details and charts of this "erosion of milieu" that begin prior to Vatican II, see Rüdiger Schulz, "Religiösität und religiöse Praxis von Katholiken in Deutschland: Aktuelle Allensbach-Daten, in Damberg and Liedhegener, eds. *Katholiken in den USA und Deutschland,* 296–320.

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Councils have been successes and history will have to show that it is correct. Such a question makes one wonder whether the Pope is in some sense closer to Fellay in his interpretation of the everyday changes in Catholicism. Since he never discusses the broader cultural context, is he perhaps closer to Fellay in seeing the current malaise in the church more as a consequences of Vatican II than his more cautious doctrinal affirmations might indicate? This observation naturally leads to the very next question.

The Binding Significance of Vatican II

Within neo-Scholastic theology, the notion of theological notes or qualifications was widely used within theology. It acknowledged that theological propositions had diverse values. The propositions were qualified according to their degree of certainty or probability or centrality to the articles of faith. Therefore, each theological proposition was assigned a different qualification or note. Some were of faith (*de fide*), others were close to it (*proxima de fide*), whereas others were only implications or consequences of article of faiths and others were mere theological opinions. As a theological student, such divisions impressed me as attempts to place complex matters into the Cartesian method of neo-Scholasticism that sought clear and distinct ideas. Over time, I have come to a more nuanced appreciation. Although such sharp distinctions have their limitations, they also have some advantages. On the one hand, they are helpful when, for example, a theologian is attacked for arguing that women should be admitted to the priesthood or that there should be a married clergy. In the light of such distinctions, it would be difficult to declare him a non-Catholic. Likewise, it might lessen making agreement on these issues a prerequisite to appointment to the episcopacy because such opinions are surely not *de fide*. On the other hand, some theologians argue that only what has been explicitly and infallibly defined needs to be believed. When the opinions of some moral theologians have been censured by the Vatican, the response has sometimes been that these moral positions have not been infallibly defined and therefore can rightly be challenged. Such a response lacks nuance because it overlooks the fact that not everything that is central to the Christian faith has been infallibly defined. Many elements of faith are central to the Christian tradition even if they have not been defined. Hence it is a much more difficult matter of the discernment of the spirits when one attempts to delineate what is central to Roman Catholic faith and what is not.

Now, Vatican II represents a very special case. It was to be a "pastoral" rather than a "dogmatic" council—though some of the constitutions

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are designated as dogmatic. However, the documents resulting from Vatican II do not appear to have the same context or significance that the Nicene Creed had in the wake of the Council of Nicaea. Does this mean that a bishop, a Pope, a theologian, or a Catholic lay person can approach Vatican II as if it were a supermarket and select what he or she likes, refuse to teach what he or she dislikes, and neglect to insist on those inconvenient truths or challenges that the Second Vatican Council advocated? The Fraternity overlooks that to say that the Council is pastoral. But this does not necessarily make it arbitrary. It is this point that Hünermann correctly addresses in several points within his essay with his demand for a prior shift in attitude, conviction, and repentance.

As is the case with other councils, Vatican II has to be interpreted within its context. One has to consider the problems of the context in which the Council took place in order to understand its centrality to the Catholic faith. Obviously, doctrinal debates (though not these alone) were central to Nicaea. Obviously issues of practical church reform as well as doctrine were central to the Council of Trent. One could not in the wake of the Trent affirm that only the doctrinal issues (for example, those about the justification) were important, but that church reform in regard to episcopal life or clerical education were not central or were only arbitrary because they were not doctrinal. Therefore, one has to explore the context of Vatican II to understand its significance and binding character. From this perspective, I would like to limit myself to two points: anti-Judaism and religious diversity or pluralism.

Anti-Judaism: Vatican II brought into the consciousness of the Church a sensitivity to the anti-Judaism and even anti-Semitism of Christian tradition and practice. Although some authors make a distinction between anti-Judaism of Christianity and the anti-Semitism of the Nazis with the former being religious and the latter ethnic or racial—such a distinction overlooks the fact that some of the practices of religious anti-Judaism have influenced cultural attitudes and thereby contributed to anti-Semitism of the National Socialist movement. Daniel Goldhagen's *Hitler's Willing Executioners: Ordinary Germans and the Holocaust,* though contested by some in Germany, and elsewhere, explores the cultural roots of the failure of resistance for example, the policies of separate clothing and separate places of residence.[6] Several months after Williamson's statements, Bishop Fellay, the superior of the Fraternity, shamelessly proclaimed that he was "embarrassed"

[6]Daniel Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Knopf, 1996).

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by the Vatican's "excessive sensibility" toward Jews, in its reaction to Williamson's anti-Semitic diatribes.[7] Fellay's critique of the Vatican brings to the fore this question: Is not the move against anti-Semitism in Vatican II central to Christian faith and practice in the wake of the Holocaust even though it is not simply a strict doctrinal issue? Fellay's continued critique of the Vatican reinforces the importance of Professor Hünermann's emphasis on the necessity of repentance.

The issue of anti-Semitism underscores the inadequacy of the recent categories of the debate in terms of continuity or innovation. One can state that Vatican II's changes, especially its liturgical changes, work against anti-Semitism and involve a critique and an innovation in the face of past practices and language. Nevertheless, the innovation in this case points out what many would consider to be central to Christianity, namely, the elimination of prejudice and hatred. Ratzinger's interpretation of Vatican II underscores much more its continuity with the tradition than the degree of discontinuity. In doing so, is he not failing to take as a teaching opportunity the obligation to point to the innovations of Vatican II that need to be stressed? Is he not missing a teaching opportunity about the fullness of the faith in Vatican II in facing the conservative rejection of Vatican II?

Religious diversity and Pluralism: The reflections within Vatican II on religious freedom and religious diversity are not unrelated to the issue of Judaism and anti-Judaism to the extent that this latter issue is interconnected with the acknowledgment of other religions in relation to their own self-understanding. The social and cultural inadequacy of the abstract notion of toleration—as if another religion were an evil—points to the problems of respect for other religious that Vatican II had taken up. The notion of religious freedom is an inadequate category to resolve the problem. Ratzinger himself has grappled with it insofar as he acknowledges that religious beliefs can be forces for good as well as for evil. There is need for a discernment of spirits. The truth of God's will for universal salvation needs to take pluralism into account in a way that does not reduce the multiplicity of religious voices to a harmonious symphony, as von Balthasar has maintained, but points to the need for respect and dialogue. The "erosion of a milieu" constitutes the challenge that Vatican II began to take up. It did not cause it but sought to deal with it. To the extent that the Fraternity refuses to accept the minimal statements that Vatican II advanced in regard to religious plurality, it stands in opposition to a central endeavor of Vatican II.

[7]Riazat Butt, "Bishop accuses Vatican of 'excessive sensibility' towards Jews," *The Guardian,* August 4, 2009, http://www.guardian.co.uk/world/2009/aug/04/vatican-accused-excessive-sensibility-jews (accessed August 15, 2009).

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As I completed this response, a news item from Germany came to my attention. It pointed out that the Vatican had announced the three theologians selected for dialogue with the Fraternity and that its condition for the success of this dialogue was the Fraternity's acknowledgement of what Vatican II taught about Judaism and religious pluralism. If the Fraternity meets that condition and up to now the evidence is in other direction, then pastoral intent of Pope Benedict might have been successful. If the Fraternity fails to do so, as it has since the remission, then the objections that Professor Hünermann has raised remain in force and display their prophetic correctness.

Harvard Divinity School FRANCIS SCHÜSSLER FIORENZA

III

Crisis in the Church?

To many North American Catholics, the case of the Lefebvrists is of little concern. On the surface, they seem to be an innocuous and marginal group with a strange attachment to the use of Latin and many of the external trappings of the pre-conciliar church: long black cassocks, white lace surplus, Tridentine vestments and rites, statuary, etc. The recent decision of Pope Benedict XVI to lift the automatic excommunication incurred by four bishops belonging to the schismatical Society of Saint Pius X (SSPX) when they were ordained to the episcopate without the approbation of Pope John Paul II, might appear as a benevolent gesture of goodwill, a hand extended in friendship to a group that is slow to accept the renewal of the liturgical renewal of the Latin church. What caught our attention was the sensation surrounding the case of the holocaust-denying Richard Williamson. When voices were raised to question the wisdom of Pope Benedict's decision, many North American church leaders rallied to support him, accusing the media of ganging up unfairly on the well-intentioned pontiff. Would that it were so simple.

Professor Peter Hünermann's analysis of the lifting of the excommunications is a welcome contribution to our understanding of these events, as it fleshes out more fully the background of the SSPX. The apprehensions raised here echo numerous statements and declarations of European conferences of bishops and theologians. Perhaps because North American Catholics do not have as much direct interaction with traditionalists as do the Europeans,[1] reactions on this side of the Atlantic

[1]The Society of St. Pius X lists 491 priests serving 750 "Mass Centers," 215 seminarians, 281 religious men and women, and counts several hundred thousand of lay followers.

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have remained somewhat muted. European Catholics are more attuned to the integrist roots of the SSPX in the political ideology of Charles Maurras' (1868–1952) *Action française* with its nationalist, monarchist, and even anti-Semitic tendencies.[2] Hünermann gives us an insight into the genuine concern and general perception that the actions of Pope Benedict are symptomatic of a grave crisis in the church. His views merit careful consideration as they emerge from a context where Catholic Church leaders and theologians are more regularly confronted by the divisive presence of the SSPX and its challenge to the orthodoxy of the living tradition of the church.

In this short space, I would like to focus on three aspects of Hünermann's analysis and the crisis generated by the lifting of the excommunications. The first of these concerns the exact nature of the schism between the SSPX and the Catholic Church, in particular the doctrinal questions at play. Secondly, I will comment on the manner in which the decision to lift the excommunications was taken and later communicated, and consider what ecclesiological issues it raises in the present context. Finally, I will consider Hünermann's most serious assertion, namely, that Pope Benedict XVI has acted in a manner that reflects a "grave defect of office" or a serious error in the exercise of papal authority.

The Doctrinal Teaching of the Second Vatican Council: A Living Tradition

Professor Hünermann is correct to draw our attention to the serious doctrinal motives behind the illicit act of consecration of these bishops on June 30, 1988 by Archbishop Marcel Lefebvre, who was at the time already under suspension by the Vatican. The letter of July 1, 1988, signed by Cardinal Bernard Gantin, then Prefect of the Congregation for

These figures are cited by Pope Benedict XVI in "Letter of His Holiness Pope Benedict XVI to the Bishops of the Catholic Church Concerning the Remission of the Excommunication of the Four Bishops Consecrated by Archbishop Lefebvre (10 March 2009)," http://www.vatican.va/holy_father/benedict_xvi/letters/2009/documents/hf_ben-xvi_let20090310_remissione-scomunica_en.html (accessed 22 September 2009). Six seminaries provide priestly formation in Switzerland, France, Germany, Austria, Argentina, and the United States (Winona, Minnesota). Fully one quarter of SSPX clergy and one half of their followers reside in France. The website for the American district lists 67 priests and 80 seminarians who serve 100 "chapels." A Canadian web site lists over 35 "Mass centers" but provides no other statistics.

[2]See, for example, Florian Michel, "L'Action française et l'intégrisme catholique: les paradoxes d'un antiromanisme ultraromain," in Florian Michel and Bernard Sesboüé, *De Mgr Lefebvre à Mgr Williamson: Anatomie d'un schisme* (Paris: Desclée de Brouwer, 2009), 11–76.

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Bishops, indicates that this excommunication came into effect due to a "schismatic act."[3] Hünermann rightly points to the letter of Pope John Paul II, as it sheds further light on the doctrinal conflict that provoked Lefebvre's failure to heed the canonical warning against proceeding with these ordinations: "The *root* of this schismatic act can be discerned in an incomplete and contradictory notion of Tradition. Incomplete, because it does not take sufficiently into account the *living* character of Tradition."[4]

Lefebvre expressed his views on tradition, particularly his refusal to accept the doctrinal and liturgical renewal of the Second Vatican Council, in a June 1988 letter to Pope John Paul II explaining his decision to ordain the four bishops, a measure calculated to ensure the survival of his movement of resistance. He lamented that Rome was "infested with Modernism," and complained, "The false ecumenism which is at the origin of all the Council's innovations in the liturgy, in the new relationship between the Church and the world, in the conception of the Church itself, is leading the Church to its ruin and Catholics to apostasy." He explained further that his decision was meant to "protect ourselves against the spirit of Vatican II and the spirit of Assisi."[5]

[3]See *Origins* 18/10 (4 August 1988): 151. This language indicates that much more is at play than matters of discipline or a mere disregard for papal authority. The canonical definition of schism requires "the refusal of submission to the Supreme Pontiff or of communion with the members of the church subject to him" (CIC 751). In his commentary on this canon, James A. Coriden notes the use of the term *detrectatio*, to indicate "an adamant refusal and persistent rejection of communion" (*New Commentary on the Code of Canon Law,*.ed. John P. Beal, James A. Coriden, Thomas A. Green [New York: Paulist, 2000], 916).

[4]John Paul II, Apostolic Letter *Ecclesia Dei (motu proprio)* (2 July 1988), no. 4, http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_02071988_ecclesia-dei_en.html (accessed 22 September 2009). In this section, the pope cites *Dei Verbum* on the dynamic nature of revelation and tradition.

[5]http://www.sspx.org/miscellaneous/letter_pope_john_paul_ii_post_1988_consecrations.htm (accessed 22 September 2009). Perhaps the most unambiguous assertion of Lefebvre's views can be found is his 1974 manifesto: "We refuse, however, and have always refused to follow the Rome of neomodernist and neoprotestant tendencies which manifested itself in the Second Vatican Council and in all the Reforms that took place following the council. Indeed, all these Reforms have contributed, and continue to contribute to the demolition of the Church, to the ruin of the Priesthood, to the annihilation of the sacrifice and of the sacraments, to the disappearance of religious life, to a naturalist and teilhardian teaching in the universities, in seminaries and in catechesis, to a teaching born of Liberalism and Protestantism many times condemned by the solemn Magisterium of the Church. No authority, not even the highest authority of the hierarchy, can compel us to abandon or diminish our catholic faith which has been clearly expressed and professed by the Magisterium of the Church for nineteen centuries. . . . One cannot modify the *lex orandi* without modifying the *lex credendi*. The new Mass coincides with a new catechism, new priesthood, new seminaries, new universities, a charismatic, Pentecostal Church—all things opposed to orthodoxy and to the Magisterium of all times. This Reform, born out of Liberalism and Modernism, is completely rotten. It is born in heresy

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A brief perusal of the abundant literature of the SSPX reveals that this same spirit continues to permeate the mission of the SSPX today, more than twenty years on. The SSPX clings to Pius IX's *Syllabus of Errors* and the anti-Modernist oath of Pius X as the criteria for doctrinal orthodoxy and considers mainstream Catholicism to have fallen victim to neo-Modernist and neo-Protestant errors. As but one example, consider the letter of Fr. Jürgen Wegner, the district superior for the SSPX in Canada, dated February 2009, explaining the lifting of the excommunications:

> The Second Vatican Council was the clear-cut turning away from Tradition, and the opening up of new ideas. The decree of the lifting of the excommunications will be the beginning of a new interest in traditional teachings and the return from the conciliar changes. The decree, after more than forty years, brings Rome closer to Tradition. It is a big step towards the reunification of the Catholic Authority with the Catholic Truth. For too long, the authority and the truth were divorced. Since the *Motu Proprio Summorum Pontificum*, one can no longer affirm that the true rite of the Mass is prohibited by Rome. Of course, some will, even so, act as if the rite were still forbidden. After the decree of January 21, no one may any longer say that Catholics attached to the Tradition are "outside of the Church." And here also, certain conciliarists will continue to act as if traditionalists were out of the Church. But this time, they will no longer have the Pope on their side.[6]

Professor Hünermann and others correctly note that the SSPX remains firm in its refusal to receive not only the revised Roman Rite of the mass, but also the most basic teachings of the Second Vatican Council. While one might question his use of the term "heresy" for the Lefebvrist position, as the canonical definition of heresy does not extend beyond the primary object of infallibility, there are serious matters of doctrine at issue requiring a degree of religious assent that they have yet to demonstrate.[7] The Curatorium or governing board of the

and leads to heresy, even if none of these acts is formally heretical. It is therefore impossible for any conscientious and faithful Catholic to adopt this Reform or to submit to it in any way" [free translation]; French orig., in Yves Montagne, *"L'évêque en suspens." Mgr Lefebvre* (Rome: Catholic Laymens' League, 1977), 35–36.

[6]http://www.sspx.ca/Documents/Fr-Wegner/2009_February.htm(accessed 22 September 2009).

[7]Professor Hünermann is speaks of the "heretical ground" of this schism. The 1983 *Code of Canon Law* differentiates between "heresy" and the related notion of "schism" (CIC 751): while both are considered "grave offenses against revealed truth and ecclesial communion" the first applies to articles of belief requiring the ascent of faith, and does not extend to the secondary object of infallibility, or to those truths which are closely

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European Society for Catholic Theology provides a succinct summary of these in a statement of concern issued from their meeting in Ghent in February of 2009. They include: "the dynamic character of revelation and tradition, Church teaching and liturgy . . . , the collegial exercise of Church governance . . . , full respect for the freedom of conscience and the freedom of religion . . . , the active commitment to ecumenical and inter-religious dialogue." The theologians maintain that by reaching out to a group that remains obstinate in its opposition to this ecumenical council, Pope Benedict XVI has contributed to a situation where "a great majority of Christians have lost confidence that Rome is committed to taking seriously the newness of Vatican II."[8]

Collegiality and sollicitudine pro universa ecclesia

One aspect of the crisis that Hünermann does not develop fully, yet which is equally worthy of consideration, is the manner in which decisions have been taken with regard to the SSPX. Several conferences of bishops and individual bishops in Europe found it necessary to issue statements to clarify the confusion surrounding the decree that emanated from the Congregation for Bishops. As Hünermann notes, in every case the bishops found it necessary to state forcefully that the lifting of the excommunications did not mean that the four bishops in question have been "rehabilitated" or re-integrated into the Catholic Church. While no longer excommunicated, the four bishops and the priests they have ordained remain under suspension *a divinis*. The exercise of their sacramental ministry is not recognized as valid by the Catholic Church. Neither they nor their followers have not been restored to ecclesial communion and remain in a state of schism.

related to, and necessary to preserve the deposit of faith. Both pertain to grave offenses against doctrine and communion. See Coriden, *New Commentary on the Code of Canon Law,* 915–16. Further investigation into the Christological roots of the integrist ideology of the SSPX—much of it expressed in a theology of Christ the "king," possibly tainted by a denial of God's universal plan of salvation—may well substantiate Hünermann's claim, though I have not yet encountered a careful study to this effect. This is certainly a question that merits closer attention.

[8]The text of this declaration can be found in "Extra ET-Newsletter of the European Society for Catholic Theology" February 17, 2009 at http://www.kuleuven.be/thomas/evkt/index.php?id=66&mail_ID=161& mailUser=default (accessed 22 September 2009). See also Geoffrey Turner, "Unleash the Theologians," *The Tablet,* 28 February 2009, 8–9. A number of European faculties of theology issued declarations of concern in reaction to the announcement of the lifting of the excommunications. See, for example, the statement by the Faculty of Theology at Münster, "Erklärung zur Rücknahme des Exkommunicationsdekrets gegen die Bischöfe der 'Priesterbruderschaft St. Puis X' und zu den Ausserungen von Bischof Williamson," http://egora.uni-muenster.de/fb2/sp_auto_62383.shtml (accessed 22 September 2009). A collection of these statements is forthcoming from Lit Verlag.

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The bishops' statements insist uniformly that any return to full communion must be conditional upon the full acceptance of the teaching the Second Vatican Council.[9] This question was only alluded to in the actual text of the decree of the Congregation for Bishops, which indicated that Pope Benedict was "trusting in their commitment . . . to spare no effort in exploring as yet unresolved questions through requisite discussions with the authorities of the Holy See."[10] If the bishops were alarmed by the lack of clarity in the Vatican decree, it is no doubt because they have in mind the extraordinary lengths to which Rome has gone to reintegrate a small number (initially 5 priests and 1 deacon) of former Lefebvrists through the establishment of the controversial Institute of the Good Shepherd in 2006,[11] a case cited by Professor Hünermann. An institute under pontifical protection, it has been granted the unusual right to establish "personal" parishes, that is to say, parishes not under the jurisdiction of the territorial bishop. Authorized to celebrate the liturgy of 1962, members have been dispensed of any obligation to participate in or to celebrate the revised rite of Paul VI (a requirement of the *Motu Proprio Summorum Pontifico*). Continuing to diverge on the doctrinal teaching of Vatican II and subsequent reforms which they consider "difficult to reconcile with the tradition," the members of the Institute of the Good Shepherd have merely agreed to adopt "a positive attitude of study and of communication with the Apostolic See while avoiding all polemic."[12] The bishops of the Catholic Church would seem unwilling to see yet another group dispensed, in effect, from receiving the teachings of the Second Vatican Council.

[9]For a dossier which includes the statements by the French, German, and Swiss episcopal conferences, and several individual bishops, see "La levée de l'excommunication des évêques lefebvristes," *Documentation Catholique* 2419 (1 mar 2009) 236–55. For the original German version of the German Bishops Conference, see http://www.zenit.org/article-17252?l=german (accessed 22 September 2009).

[10]Congregation for Bishops, "Decree Remitting the Excommunication 'Latae Sententiae' of the Society of St Pius X," http://www.vatican.va/roman_curia/congregations/cbishops/documents/ rc_con_cbishops_doc_20090121_remissione-scomunica_en.html (accessed 22 September 2009). Pope Benedict himself acknowledges this lack of clarity among the "mistakes" involved in the implementation of the decision to lift the excommunications: "Another mistake, which I deeply regret, is the fact that the extent and limits of the provision of 21 January 2009 were not clearly and adequately explained at the moment of its publication" ("Letter to the Bishops Concerning the Remission of the Excommunication" [see n. 1]).

[11]For a fuller account, see Bernard Sesboüé, "Institut du Bon-Pasteur, un espoir ou un équivoque?" in *De Mgr Lefebvre à Mgr Williamson*, 77–113, especially 101f.

[12]Declaration of 2 February 2007, in *Documentation Catholique* 2375 (2007) 243; cited in Sesboüé, "Institut du Bon-Pasteur," 108. These are the same terms that appeared in the agreement signed by Archbishop Marcel Lefebvre on 5 May 1988, through the mediation of then Cardinal Joseph Ratzinger.

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Whenever surveyed in the past on questions pertaining to the provisions for celebrating the Tridentine rite or the use of Latin in the liturgy, the vast majority of bishops have expressed serious reservations, fearing that any concession to traditionalists would engender "an attitude of defiance towards all that was established by the Second Vatican Council."[13] Pope Benedict and the Ecclesia Dei Commission have consistently ignored the anxieties of the bishops over their treatment of traditionalist groups. It is striking to note that the letters of the French, German, and Swiss conferences of bishops concerning the bishops of the SSPX all include the remarkable admission that the bishops were not consulted concerning the possible lifting of the excommunications—a decision that might have a significant impact on the life of their dioceses.[14] In the words of one author, these events reveal "the naked problem of an exercise of power that is authoritarian and solitary."[15] It is difficult not to conclude with the bishops themselves that these events reflect a glaring lack of collegiality. Rome tends consistently to minimize the challenge that the SSPX and other traditionalist groups represent for the life of the local churches. The reactions of the bishops reflect not only the interests of their dioceses, but should be properly understood as an expression of concern and solicitude for the universal church—a solicitude which they share with the Bishop of Rome (*LG* 23).

"A Grave Defect of Office"?

Professor Hünermann concludes his analysis by suggesting that in his failure to sufficiently appreciate the doctrinal implications of his actions and by lifting a canonical penalty when those in question had not demonstrated any clear change in their position[16] Pope Benedict XVI has acted in a way that reflects a "grave defect of office" or has committed a serious error in the exercise of his ministry. In the very least, he has gone against the both the spirit and the letter of the canons pertaining to ecclesiastical penalties.

One might be willing to accept that, in exceptional circumstances, the pope can invoke extraordinary measures and make use of his power

[13]Robert Mickens, "Return to Tradition," *The Tablet,* 25 April 2009, 14–15.

[14]Pope Benedict himself recognizes that "many Bishops felt perplexed by an event which came about unexpectedly and was difficult to view positively in the light of the issues and tasks facing the Church today" ("Letter to the Bishops Concerning the Remission of the Excommunication").

[15]Marco Politi, "The Church's New Age of Dissent," *The Tablet,* 21 March 2009, 5.

[16]In canonical terms, "withdraw from contumacy" (CIC 1358, §1; CIC 1348, §2). As a general rule, such canons are "subject to strict interpretation" (CIC 18).

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over the universal church to assure the unity of the church. However, neither the Decree of the Congregation for Bishops or Pope Benedict's personal explanation of these actions make a convincing case that the circumstances of the SSPX bishops or their schismatic movement are so changed as to warrant the extraordinary measure of reversing the decisions of his predecessor, bypassing the local bishops, or overriding the provisions of canon law. Whether or not Pope Benedict's actions are canonically valid is a judgment for the canonists. In the very least, they reflect an arbitrary and isolated exercise of primacy.

From an ecclesiological perspective, Pope Benedict's actions reflect an overly personalized notion of the papal office. In ecumenical circles, it is widely recognized that in Catholic theology and practice, the exercise of papal primacy has overly emphasized the personal aspect of this ministry to the detriment of the collegial and communal dimensions of that office. A number of commentators, on examining Pope Benedict's letter of March 10, 2009, noted its surprisingly "personal" tone. While Pope Benedict has frankly admitted a number of mistakes and missteps in the implementation of the remission of the excommunications, he seems to have missed the doctrinal and ecclesiological implications of his own actions and those of his curia. He insists that he is only carrying out the plan laid down at the outset of his papacy.[17] Yet to do so, he has gone to extraordinary lengths, contradicting some of the most basic principles of ecclesiastical order. One is left to wonder whether Pope Benedict is truly able to bridge the gap between his personal vision for the church and the pressing pastoral concerns arising from the lived experience of the local churches. A proper exercise of the papal office requires greater responsiveness to the realities facing the churches whose needs are expressed and represented by the bishops. If the ministry of communion is truly one of service, the holder of that office will often be required to readjust his sights for the good of the whole. Such responsiveness is required if the Bishop of Rome is to truly strengthen his brothers in the episcopate.

Professor Hünermann's analysis enables us to discern more clearly the dimensions of the crisis of authority confronting the Catholic Church: as it relates to the authority of the Second Vatican Council, of the pope, of the bishops, and of the *sensus fidelium* of the Catholic faithful who have eagerly embraced the renewal of Vatican II. The fact that the Catholic Church continues to be dogged by the questions of historicity, change, and engagement with contemporary culture suggests it

[17]"I believe that I set forth clearly the priorities of my pontificate in the addresses which I gave at its beginning. Everything that I said then continues unchanged as my plan of action" ("Letter to the Bishops Concerning the Remission of the Excommunication").

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is dangerously close to missing the very heart of Blessed John XXIII's council.

Saint Paul University CATHERINE E. CLIFFORD

IV

In this challenging and controversial essay, the Tübingen dogmatic theologian Peter Hünermann, well known for his argument that Vatican II represents a constitutional development in the Church,[1] has argued that Pope Benedict XVI not only made a tactical mistake in lifting the excommunication of four bishops who belong to the Society of St. Pius X, but also guilty of "a grave defect of office," judging that "the Pope may not abrogate a ban of excommunication incurred as a result of an illegitimate episcopal consecration with a heretical-schismatic motivation and root." He further argues that the lifting of the excommunication must be considered null and void.

The canon in question is #1358§1 with reference to the remission of a censure and to contumacy (commonly defined as "stubborn resistance to authority"). Further reference is made to #1347:

> §1. A censure cannot be imposed validly unless the offender has been warned at least once beforehand to withdraw from contumacy and has been given a suitable time for repentance. §2. An offender who has truly repented of the delict and has also made suitable reparation for damages and scandal or at least has seriously promised to do so must be considered to have withdrawn from contumacy.

Since I am not a canon lawyer, I am reluctant to make any judgments on the technical merits of Hünermann's case. Suffice it to say that his indictment (not too strong a word) of the Pope rests on one's understanding of whether or not the Society of Pius X bishops have acted in good faith in taking the initiative to return to communion with the Catholic Church. A good deal of the essay casts doubt on their sincerity. Here I must admit that I find the essay difficult to judge since so much of it relies on associations of the Lefebvrist bishops with right-wing organizations, e.g., the old "Action française" and the French politician, Jean-Marie LePen. At times the schismatics are lumped with groups like the Institute of the Good Shepherd and the Monastery of Ste. Madeleine in Le Barroux, which after all are in communion with

[1]See Massimo Faggioli, "Council Vatican II: Bibliographical Overview 2005–2007, *Cristianesimo nella Storia* 29 (2008), 7–10.

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the Church. Hünermann tends to convict the Society of Pius X of guilt by association with these latter groups who are in turn judged to be in league with political rightists in France. In short, the essay relies at times on innuendo and hearsay. I do not think that such forms of argument make a strong case.

But since Hünermann's essay does raise a number of issues both with regard to the notion of Tradition and with regard to the liturgy (which *is* my field of study) I will attempt to make several observations.

Tradition

The key theological bone of contention between the Catholic Church and the traditionalist schismatics is the understanding of tradition. Hünermann himself points out that both John Paul II and Benedict XVI have addressed this issue—the former in his *motu proprio Ecclesia Dei* (July 2, 1988), and the latter in his (now well-known) 2005 Christmas address to the Roman Curia in which he distinguished between a "hermeneutics of discontinuity and rupture" and what he called a "hermeneutics of reform" or "renewal in . . . continuity" with regard to Vatican II.[2] A number of Traditionalists have seized upon the phrase "hermeneutic of continuity"[3] as their battle-cry. But, as Hünermann ably demonstrates, the Pope's employment of the phrase is also a way of showing how Vatican II does not depart from the living tradition of the Church. The sad tendency of the traditionalists is to regard Tradition as something frozen in time, without development. Their approach falls under the judgment of Jaroslav Pelikan in the introduction to his five-volume history of doctrine, *The Christian Tradition*: "Tradition is the living faith of the dead; traditionalism is the dead faith of the living."[4] In *Ecclesia Dei* John Paul II claimed that the Lefebvrists were dealing with just such a dead understanding of tradition. In my opinion, Hünermann quite correctly argues that the fundamental problem of the traditionalist position is their moribund *Syllabus-of-Errors*-approach

[2]Pope John Paul II, Apostolic Letter *Ecclesia Dei (motu proprio)* (July 2, 1988), http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_02071988_ecclesia-dei_en.html (accessed September 20, 2009); Pope Benedict XVI, "Address of His Holiness Benedict XVI to the Roman Curia Offering Them His Christmas Greetings" (December 22, 2005), http://www.vatican.va/holy_father/benedict_xvi/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia_en.html (accessed September 20, 2009).

[3]See the blog *The Hermeneutic of Continuity,* http://the-hermeneutic-of-continuity.blogspot.com/.

[4]*The Christian Tradition: A History of the Development of Doctrine. Vol. 1: The Emergence of the Catholic Tradition (100–600),* Chicago: The University of Chicago Press, 1971), 9.

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to tradition. In some ways the liturgical question here is just the tip of the iceberg. The real question is a yearning for a(n imagined) pre-1960 world in which the Church was not officially and irrevocably committed to ecumenism and religious liberty. There is something terribly sad about this traditionalist nostalgia which might be able to recreate a Tridentine liturgy in some circumstances but cannot recreate an entire culture—at least without lapsing into some kind of Catholic equivalent of the Amish way of life. As admirable as the Amish certainly are, they will not be anything more than a sect. This is what the traditionalists represent—a sectarian form of Catholicism, inimical to the true Catholic tradition.

Liturgy

Of course the traditionalists are most visible in their desire for a return to the pre-Vatican II liturgy. Although many would-be "reformers of the reform" would deny it, the majority seem to reject any meaningful development in history. Any sober assessment of the historical development of the liturgy reveals both continuity and discontinuity in the Church's ways of worship. I suspect that what is very often operative in the rejection of the post-Vatican II liturgical reform is the belief in a God who frequently occupies himself in sending people to hell. In addition to not being a canonist, I am no sociologist, but my hunch is that the biggest reason for the decline in church attendance is that the vast majority of Catholics have stopped believing that hell is well-populated. This seems to be a view that the traditionalists do not share. One gets a good idea of their idea of God from a recent theological critique of the new rite co-authored by priests of the Society of Pius X.[5] As I have recently pointed out elsewhere, their critique of the post-Vatican II liturgy is thorough and consistent. They completely reject the Paschal Mystery theology which lies at the foundation of the liturgy constitution, indeed of the modern liturgical movement.[6] Instead, they insist on a purely Passion-centered understanding of the workings of the liturgy in which the merits of Christ's saving death are applied. Needless to say, what is at stake here is not some minor changes in prayers, structures and language, but rather fundamental aspects of Christian faith and its application.

[5]Society of St. Pius X, *The Problem of the Liturgy Reform*, Kansas City, MO: Angelus Press, 2001.

[6]See John F. Baldovin, *Reforming the Liturgy: A Response to the Critics,* Collegeville: Liturgical Press, 2008, 137–40.

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That is why I find Hünermann's downplaying of the differences between the pre- and post-Vatican II liturgy puzzling. In a footnote comparing the pre- and post-Vatican II Eucharistic liturgies in Latin, Hünermann claims that "the differences are minmal." In a way he is correct. Nothing fundamental about the Mass has changed. The basic dynamic of the proclamation of God's word followed by the four-fold shape of taking-blessing-breaking-giving remains stable. Magisterial authority has never legislated that the liturgy must be celebrated in the vernacular nor is there any stipulation that the priest must face the people in the celebration—only that the principal altar in a church be free-standing. On the other hand, the massive (and beneficial) enlargement of the lectionary, the simplification of the rubrics, the addition of new Eucharistic prayers, the option of communion in the hand, communion under both kinds, and the reform of the calendar have made for a very significant change in how the Eucharist is celebrated and perceived. From the long view of history the changes in the Mass may be minor, but in terms of religious experience they are monumental. And, of course, they reflect the worldview that I described at the beginning of this section, a very different idea of God and his saving activity than the one that prevailed up to the middle of the twentieth century.

Hünermann argues as much when he contrasts two invitations and prayers (for other Christians and for the Jews) in the Solemn Prayers of Good Friday. The newer approach which emphasizes the common faith experienced through Baptism on the one hand, and our sharing of the covenant with the people of Israel on the other demonstrates how very much is at stake in the liturgical reform. As Pope Benedict has reaffirmed a number of times, it would be unfortunate to analyze these shifts from the perspective of a hermeneutic of rupture. In the long view of the entire Christian tradition, the newer accents are not new at all, but at the same time, as John O'Malley and others have argued,[7] the post-Vatican II liturgical reform represents a remarkable departure in style *and therefore in substance* from the religious experience of post-Tridentine Catholicism.

One other liturgical issue should be noted. Hünermann points out that, Bernard Fellay in the February 2009 Bulletin of the St. Pius X Society rejoices in the decision by Pope Benedict XVI (in his *motu proprio Summorum Pontificum*, July 2007) that the Missal of 1962 was never officially abrogated.[8] As far as I can tell, there was never an official

[7]John W. O'Malley, *What Happened at Vatican II*, Cambridge: Harvard University press, 2008.

[8]Pope Benedict XVI, Apostolic Letter *Summorum Pontificum (motu proprio)* (July 7, 2007), http://www.vatican.va/holy_father/benedict_xvi/motu_proprio/documents/hf_ben-

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decree of abrogation, but as I have pointed out elsewhere, what else could it have meant that one needed an indult in order to celebrate the old rite? Surely the traditionalists rejoice in the new liberality granted to the use of the 1962 Missal, but the issue remains very problematic for the Church at large. This is not so much because thousands will flock to the old Mass. They won't. They will soon grow tired of the novelty. No, it is because the traditionalists (among them a good number of younger clergy) will distract church authorities in particular and Catholics in general with their insistence on these out-dated liturgies.[9]

Conclusion

Let me conclude with three somewhat disparate comments. First, I certainly sympathize with Hünermann's concern that the Pius X Fraternity traditionalists do not really ascribe to the Church's teaching as proposed by the Second Vatican Council, especially with regard to ecumenism, the nature of the Church and religious liberty. At the same time, it seems to me that his technical point about the lifting of the excommunication is weakened by the fact of Bernard Fellay's damning letter, in which he clearly shows his reluctance to accept Vatican II post-dates the Vatican decree. True, it is not inconsistent with earlier remarks, but at the same time it is only fair to presuppose that the Vatican acted in good faith. The same is true with regard to Richard Williamson's holocaust-denial. Apparently Vatican officials were innocent of this fact. However lamentable, I do not think that the Vatican should be accused of being farcical in its request that Williamson recant. Moreover, regardless of the press' sensationalist treatment of the lifting of excommunication, as Hünermann points out, these members of the Society of Pius X are not in full communion with the Catholic Church and are not deputed to act as priests or bishops. Should they be reconciled without a clear acceptance of the Church's full tradition, including Vatican II, then that would be a true scandal.

Second, towards the beginning of his essay Hünermann mentions that the original consecration of the four bishops by Archbishop Lefebvre is considered valid in Catholic theology. That is true. But I wonder if the time has not come for us to ask some deeper questions with regard to the transmission of the apostolic faith, authority and sacramental power. In my opinion the whole theological question of "doing

xvi_motu-proprio_20070707_summorum-pontificum_lt.html (accessed September 20, 2009).

[9]See John F. Baldovin, "Reflections on *Summorum Pontificum*," *Worship* 83 (2009), 98–112.

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what the Church intends" needs to be radically re-thought—both in light of these schismatics and in light of ecumenical relations.

Finally, it should not go without saying that this whole affair is another sad chapter in the saga of Vatican paranoia about the refusal of a minority of right-wing Catholics to accept the teachings of the Vatican Council. This issue clearly preoccupied Pope Paul VI as was evident in his addition of a postscript to *Lumen Gentium* disabling episcopal collegiality and in his timidity with regard to structural reform in the Vatican. It is a sad chapter because so many millions of men and women are hungering for good news but are rather treated to the spectacle of a Church that must seem irrelevant.

Boston College JOHN F. BALDOVIN, SJ

AUTHOR'S RESPONSE

In the introduction to her contribution, Catherine Clifford observes that the question of the lifting of the excommunication of the four bishops of the Society of St. Pius X (SSPX) attracted relatively little attention among North American Catholics. In France, Germany, and Switzerland, the situation is quite different. Fierce public controversies began in these countries already in the early Seventies, stirring up the general public, because they were linked with spectacularly staged events like the first seizure of a church in Paris. Lefebvre and his supporters established strong links with traditionalistic circles in the Catholic milieu. Thus they became the spokesmen for a whole series of groups that did not formally join Lefebvre. Since 1988, the year of the excommunication of Lefebvre and the four bishops he consecrated, there has grown up an increasing number of Lefebvre supporters who did not follow him into schism or who were later reconciled with the Church, without recognizing the Second Vatican Council or distancing themselves from the traditionalist theological tenets of Lefebvre and his group. Thus, since 1988, there exists the Priestly Fraternity of St. Peter (FSSP) with a major seminary and stations in Germany and France. Until now, the German bishops have unanimously refused to accept priests of this fraternity into diocesan service. The reason for this refusal is their strict rejection of the liturgical reform of the Second Vatican Council and their merely selective recognition of the Second Vatican Council. The result is that for over twenty years now, in France, Germany, Switzerland, Belgium, and Austria, the St. Pius Society and its tenets have been at the center of public discussion, and the Roman support of the St. Pius Society and those groups which initially derived from it and later were reconciled

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with the Church has been a heavy burden on the public reputation of the Catholic Church. At the same time, after a period of initial positive reactions, the public esteem for the Pope has shifted strongly to the negative. I begin with these observations because my article, first published in the *Herder-Korrespondenz*, a widely read German Catholic monthly, addresses primarily the situation in German, Switzerland, and France, which differs from that prevailing in the USA and Canada.

I am most happy that, thanks to the well developed statements of Francis Schüssler Fiorenza, Ladislaus Orsy, Catherine Clifford, and John F. Baldovin, the basic systematic, canonistic, ecclesiological, and liturgical arguments have been submitted to thorough discussion and that the specific U.S.-American and Canadian points of view have been brought to expression. The picture of the problematic that emerges from the round-table discussion is well-rounded and brings to the fore the ecclesial and theological significance of the lifting of the excommunications. In this discussion it becomes tangible what is at stake in the conversations between the Vatican Commission and the St. Pius Society that are currently taking place (Fall 2009) regarding the question as to whether the Second Vatican Council shall "be so disinfected that it is no longer the council of John XXIII and Paul VI" (in the words of a traditionalist author in a blog of the St. Pius Society) or whether the Second Vatican Council will be received in "sensu obvio" (Paul VI in a letter to Archbishop Lefebvre after his suspension).

Response to the systematic-theological statement of Francis Schüssler Fiorenza:

The well-documented and comprehensive situation of the lifting of the excommunication in the post-conciliar problematic and the hermeneutic of the Second Vatican Council offered by Francis Schüssler Fiorenza is a brilliant piece of writing. I would like to stress the bridge-building between the German and the American points of view. Allow me a single critical observation regarding the article's estimate of the number of Lefebvre supporters as between 2 and 2.5 million. In the European press, the number is set maximally at between 500,000 and 600,000.[1]

[1]See Klaus Nientiedt, "Verspäteter Antimodernismus" in *Herder-Korrespondenz* 63 (2009): 177. As of 1 November 2008, the St. Pius X Society comprised 14 districts, 3 autonomous stations, on the whole 159 priories and 723 Mass centers. In addition there are 2 institutions of higher learning, 6 major seminaries, 7 homes for the elderly, and 88 schools. Youth groups and religious communities exist in 31 countries. Further activities are found in 32 other countries (ibid.).

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Response to the statement of Ladislaus Orsy

With regard to the lifting of the excommunication, Ladislaus Orsy, with whom I have much in common, distinguishes between the realm of law and the theological character of the problem. I fully agree with him that the Pope as the lawgiver can naturally lift a punishment imposed by the general legislation of the Code of Canon Law. Ladislaus Orsy expressly emphasizes, however, that in the present case, in his view, the theological context should be taken into account.

In complimentary fashion to his view, I hold that, in the case of the lifting of the excommunication of the four bishops of the St. Pius Society, it is *imperative* to take account of this theological point of view. In my opinion, this conclusion issues clearly from the *motu proprio* of John Paul II *Ecclesia Dei*. This declaration followed the previous qualified suspension of Archhbishop Lefebvre. In 1976, Archbishop Lefebvre was ordered by Paul VI not to undertake further priestly ordinations. When he again performed a priestly ordination on 29 June 1976—despite two warnings of the Secretariat of State, "de mandato speciali Summi Pontificis," not to carry out the planned ordinations—Lefebvre was informed, that he "had not only incurred *ipso facto* the in canon law prescribed punishment of suspension from the authority to ordain for a year, but also that the Apostolic See is investigating the *formal disobedience* with regard to the express prohibition of these ordinations."[2] Lefebvre was given a period of grace of ten days to show proof of repentance. In his letter of reply (the fourth letter of Monsignore Lefebvre to Paul VI from 17 July 1976), Lefebvre refused this demand. Instead he challenged the Pope himself:

> Holy Father, will you please demonstrate your will to see the Kingdom of our Lord Jesus Christ spread out in the world by:
>
> – restoring the public law of the Church,
> – giving back to the liturgy its full dogmatic standing and its hierarchical form according to the Roman-Latin Rite, which has been hallowed by use over centuries,
> – returning the Vulgata to honor,
> – giving back to the catechism its true model, namely that of the Council of Trent.
>
> In doing so, Your Holiness will restore the Catholic priesthood and the kingship of Our Lord Jesus Christ over individual persons, over

[2]See Ludger Müller, "Der Fall Lefebvre, Chronik eines Schismas" in *Das Bleibende im Wandel: Theologische Beiträge zum Schisma von Marcel Lefebvre*, ed. Reinhild Ahlers and Peter Krämer, Festschrift Heribert Schmitz (Paderborn: Bonifatius, 1990), 24.

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> families, and over civil society. After the example of your predecessors, you will restore the right understanding of the falsified ideas which have become idols of modern man: freedom, equality, brotherhood, democracy. May Your Holiness, on the contrary, abandon the calamitous attempt to affect a compromise with the ideas of modern man, which took its beginnings already before the Council in a secret agreement between ecclesiastical and Masonic dignitaries. To remain on this course, would mean to continue the destruction of the Church. Your Holiness should well understand that we cannot cooperate with such a baneful concept, which is what we would do by consenting to the closing of our seminaries.
>
> May the Holy Spirit give Your Holiness the gift of strength so that by an unambiguous action you may show yourself to be the true and authentic successor of Peter and proclaim that there is no salvation except in Jesus Christ and his mystical Bride, the holy Catholic and Roman Church.[3]

In his public declaration dated 29 July 1976, Lefebvre stated, "This conciliar Church is a schismatic church, because it has broken with the Catholic Church and with the Church of all times. It has its new dogmas, its new priesthood, its new institutions, its new cult, which have long since been condemned in many official and irrevocable documents." On 22 July 1976, the suspension *a divinis* had been imposed according to canon 2279 § 2 (of the 1917 Code of Canon Law). The Archbishop was thereby forbidden to exercise any act of the consecratory power, the *potestas ordinis*. The reason given for the imposition of this more rigorous suspension was: "the rejection of the decisions of the Second Vatican Council, the defiance of the governing office of the Pope and the offence against the unity of the Church."[4]

Following this qualified suspension, which forbade altogether the exercise of the *potestas ordinis* (i.e. not only with regard to priestly ordinations, but also episcopal consecrations, and that not only for a single year), Paul VI once again granted Archbishop Lefebvre an audience on 15 September 1976. Finally, in a letter of 11 October 1976, he laid down the conditions under which alone a lifting of the suspension and a recognition or integration of the individual members of the St. Pius Society would be possible. At the core of this declaration is the

[3]Quoted from Marcel Lefebvre, *Damit die Kirche fortbestehe: S. E. Erzbischof Marcel Lefebvre, der Verteidiger des Glaubens, der Kirche und des Papsttums; Dokumente, Predigten und Richtlinien; eine historiographische Dokumentation* (Stuttgart: Priesterbruderschaft St. Pius X, 1992), 159f.

[4]See Müller, "Der Fall Lefebvre"; see also *L'Osservatore Romano*, 26/27 July 1976.

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recognition of the Ecumenical Second Vatican Council and "all its texts," indeed "in sensu obvio."[5]

The excommunication following the episcopal consecration should be judged on the basis of this preceding qualified suspension. Above all it shows how the text of John Paul II in *Ecclesia Dei* should be understood when it speaks of a "schismatic act" that was committed through the episcopal consecration. Such an explicitly schismatic behavior—never repudiated by Lefebvre and the four bishops—necessarily entailed the excommunication *latae sententiae*. In my opinion, this excommunication cannot be lifted by an act of pardon by the Pope as long as the facts of the case remain unchanged.

Three brief remarks regarding Catherine Clifford's extensive and interesting commentary:

Catherine Clifford objects to the use of the term "heresy". In my German text, I quite consciously avoided speaking of "heresy" pure and simple, but instead used the terms "häretischem Grund" in the sense of "background;" this was perhaps understandably mistranslated as "grounded on heresy". Similarly I spoke of "häretischem Character" ("heretical character"). The grounds for this expression is that the notion of "living Tradition"—the rejection of which John Paul II identifies as the "root of the schism" of Lefebvre—has not been formally defined. Nevertheless it belongs to the uncontroverted basic theological notions that shaped all of the statements of the Second Vatican Council and which constitute the basic premises of the statements of the Council. The issue addressed here thus belongs to the foundations of Catholic faith. For this reason, I believe it is justified to speak of an "heretical background" and an "heretical character."

A minor misunderstanding on the part of Catherine Clifford needs correction. She assumes that there is only one single small group of former members of the St. Pius X Society which has been reintegrated into the Catholic Church without their having accepted the Second Vatican Council with all of its documents "in sensu obvio." The fact is that, although I spoke more extensively of but a single group, there are in fact some ten to twenty groups in all which maintain a whole series of major local houses. Among these groups are the St. Peter Fraternity, the Institute of the Good Shepherd in Bordeaux, but also other groups and above all a whole series of religious communities of men and women who originally belonged to the St. Pius X Society or at least stood in close contact with it and later were integrated into the

[5]Cited according to Lefebvre, *Damit die Kirche fortbestehe*, 212–14.

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Catholic Church or formally acknowledged. All of them were reintegrated on the basis of a 1988 "consensus document" which Cardinal Ratzinger negotiated with Archbishop Lefebvre and which Lefebvre initially signed but later repudiated. The content of the agreement is of special significance, because in it only the recognition of *Lumen Gentium* no. 25 is expressly called for. For the rest, there is mention only of a duty to study more closely, in contact with the Roman curial office, the documents of the Second Vatican Council which appear difficult to reconcile with the Tradition. For a whole series of such groups which have thus been integrated or acknowledged, it is expressly stated that for their reintegration no doctrinal conditions were imposed upon them.

Catherine Clifford's article refers expressly to episcopal reactions in Europe. This is an important supplement to my article. I have not discussed these statements in detail. I began my paper immediately after the publication of the Roman declaration on the lifting of the excommunication. The episcopal reactions came later. Understandably, they do not discuss the historical origins of the schism, nor do they plumb the theological problematic. They speak as a rule in generalities and confine themselves to the demand to give unconditional recognition to the Second Vatican Council. Thus they lay outside the formal scope of my investigation. Nevertheless I am grateful to Catherine Clifford that she has called attention to this important aspect for an overall evaluation.

With respect to the critical observations of John F. Baldovin SJ, I would also like to make some comments. The author calls the conclusions which I draw in my article an "indictment." In my article, I deliberately used the word "Amtsfehler," which should have been translated better as an "error in the exercise of office" rather than "grave defect of office." I did not speak of "Amtsmissbrauch" ("abuse of office"), which in German as in English designates an official act which is legally punishable. Through the use of "Amtsfehler," I wanted to avoid such an interpretation, because I do not wish to question the good will, the *bona intentio* of the Pope. For this reason, it appears to me that the term "indictment" does not accurately express my intention.

In the same paragraph, the author states, "Suffice it to say, that this indictment (not too strong a word) of the Pope rests on one's understanding of whether or not the Society of Pius X bishops have acted in good faith in taking the initiative to return to communion with the Catholic Church. A good deal of the essay casts doubt on their sincerity." I want to make clear here that I have never put in question the subjective good faith and honesty of the bishops of the Pius X Society. In my opinion, they have left no doubt that they reject the teaching of the

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Second Vatican Council in important points. By the same token, they have never left any doubt that they claim to be Catholic and thus demand to be recognized as Catholics. They have published a *Katholischer Katechismus zur kirchlichen Krise*,[6] in which these points are very clearly stated. They have sent a memorandum to the Pope which analyzes and condemns the liturgical reform of Vatican II. Father Franz Schmidberger, the long-time superior of the St. Pius Society and currently District Superior for Germany, has most recently presented a very exact statement on the views concerning the controversial points of Vatican II. In his letter concerning the reintegration into the Church, Bishop Fellay explicitly mentions the *Profession of Faith of Paul IV*. He also writes, however, that he and the other bishops are prepared to undersign with their blood the *Profession of Faith of Trent*, the *Syllabus of Errors* and the *Antimodernist Oath*. All that speaks for honesty, in my opinion. There is no dissimulation of what by and large constitute the basic convictions of the bishops and the St. Pius Society. My intention is not to question their honesty. All the more, however, do I question, why, on the basis of such a such a letter and in the light of such declarations, a lifting of the excommunication can possibly be given serious consideration from the Roman side.

I included the reference to the *Action française* and its ongoing influence in the Catholic Church and in the political scene in France in order to show that the statements of Bishop Williamson are not surprising. Anti-Semitic connections and expressions are often found in the sphere of influence of the St. Pius X Society. This holds not only for the St. Pius X Society but also for the individual groups which have separated from the Society and were later reintegrated into the Catholic Church. Evidently, this aspect of the problem has been given no attention in previous dealings with the Society and with the groups returning to the Church from the Society. On the other hand, the Declaration *Nostra aetate* on the relationship between Jews and Christians and the Christian-Jewish dialogue is an essential part of Vatican II.

I am in full agreement with what Baldovin has to say about the *Tradition* and my evaluation of the central problem, and I thank him for his observations. Concerning the liturgy, I referred in a footnote to the continuity on the surface between the Latin text of the Ordinarium of 1962 and the Ordinarium in its post-conciliar reformed version. Baldovin rightly points out that in the understanding of the liturgy a number of Counter-Reformation constrictions have been dissolved in

[6]*Katholischer Katechismus zur kirchlichen Krise,* 2nd ed. (Jaidhof:Rex Regum,1999). There is no English translation.

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favor of a broader and deeper understanding of the liturgy in and after the Second Vatican Council. In my article, I have not further developed this topic.[7] My footnote was occasioned by reports in the European, particularly in the German press, which gave the impression that the lifting of the excommunication involved primarily the rehabilitation of Latin in the liturgy, namely that there exists a certain nostalgia for the Latin form of the Mass and that the lifting of the excommunication is mostly concerned with this nostalgia. The intention of my footnote, therefore, was to show that even after the liturgical reform, every priest, provided the pastoral situation allows it, was permitted to use the Latin formulary, which differs in its wording only very little from the old Latin form.

In his conclusion, Father Baldovin writes: "I wonder if the time has not come for us to ask some deeper questions with regard to the transmission of the apostolic faith, authority and sacramental power. In my opinion the whole theological question of doing what the Church intends, needs to be radically re-thought—both in light of these schismatics and in light of ecumenical relations."

That indeed seems to me to be an urgent demand. Such a rethinking should begin with the questions of liturgical law. Franz Nikolasch, a long-time acquaintance and good friend, called my attention to the fact that Paul VI in the Apostolic Constitution *Pontificalis Romani recognitio* declared:

> We therefore think it necessary, so as to remove all controversy and avoid perplexity of conscience, to declare what are to be held as the essentials in each revised rite. By our supreme apostolic authority we decree and establish the following with regard to the matter and form in the conferring of each order. . . .
>
> Finally, in the ordination of a bishop, the matter is the laying of hands on the head of the bishop-elect by the consecrating bishops, or at least by the principal consecrator, that is done in silence before the consecratory prayer; the form consists in the words of the consecratory prayer, of which the following belong to the essence and are consequently required for validity: "So now pour out upon this chosen one that power which is from you, the governing Spirit whom you

[7]The corresponding discussion can be found in Peter Hünermann, ed., *Excommunikation oder Kommunikation? Der Weg der Kirche nach dem II. Vatikanum*, Quaestiones Disputatae 236 (Freiburg: Herder, 2009), 123–53. In these pages, Bernhard Kranemann presents a penetrating analysis of the memorandum of the Society of St. Pius X, *Das Problem der Liturgiereform: Die Messe des II. Vaticanum und Pauls VI. Eine theologische und liturgische Studie* (Stuttgart: Vereinigung St. Pius X., 2001). Kranemann refers to the important work of Father Baldovin, *Reforming the Liturgy. A Response to the Critics* (Collegeville, MN: Liturgical Press, 2008).

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> gave to your beloved Son, Jesus Christ, the Spirit given by him to the holy apostles, who founded the Church in every place to be your temple for the unceasing glory and praise of your name."
>
> . . . By our apostolic authority we approve this rite so that it may be used in the future for the conferral of these orders in place of the rite now found in the Roman Pontifical.
>
> It is our will that these our decrees 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 amendment."[8]

Concerning this quotation, Franz Nikolasch wrote me: "The text clearly indicates that the validity of ordinations is tied to the observance of the provisions of this Apostolic Constitution and that all previous contrary determinations, including those of Apostolic constitutions, are thereby abrogated. Concretely, the provisions of the Apostolic Constitution *Sacramentum ordinis* of Pope Pius XII from 30 November, 1947 are intended, by which the matter and form of ordination were determined.

"In a parallel manner, Paul VI determined anew the matter and form of Confirmation and the Anointing of the Sick in the apostolic Constitution *Divinae consortium naturae* from 15 August 1971, likewise declaring all earlier forms invalid: 'We intend that everything that we have laid down and prescribed should be firm and effective in the Latin Church, notwithstanding, where relevant, the apostolic constitutions and ordinances issued by our predecessors, and other prescriptions, even those worthy of special mention.'"[9] Nikolasch concludes his observations with the words: "From these references to the currently prevailing liturgical norms, which are characterized by the legal action of Pope Paul VI in the form of apostolic constitutions taking precedence over all other juridically relevant documents, it becomes clear that the ordinations as well as the confirmations

[8]This document is dated 18 June 1968. For the original Latin text on the Vatican website, see http://www.vatican.va/holy_father/paul_vi/apost_constitutions/documents/hf_p-vi_apc_19680618_pontificalis-romani_lt.html (accessed 5 October 2009). There is no official English translation on the Vatican site. The present translation is taken from http://www.catholicliturgy.com/index.cfm/FuseAction/documentText/Index/2/SubIndex/41/ContentIndex/393/Start/392 (accessed 5 October 2009).

[9]For the original Latin text on the Vatican website, see http://www.vatican.va/holy_father/paul_vi/apost_constitutions/documents/hf_p-vi_apc_19710815_divina-consortium_lt.html (accessed 5 October 2009). There is no official English translation on the Vatican site. The present translation is taken from http://www.fargodiocese.org/educationformation/evangelization/Confirmation/ApostolicConstitutionOnConfirmation.pdf (accessed 5 October 2009).

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and anointings of the sick which have been or will be performed without observing the provisions of the respective apostolic constitutions are invalid according to liturgical law." Neither John Paul II nor Benedict XVI have abrogated the two apostolic constitutions of Paul VI.

What we see here are the many unresolved problems that are connected with the reintegration of the bishops and the Pius X Society, as well as with the permission to celebrate the liturgy in the version of 1962. Thus in his letter to the bishops concerning the lifting of the excommunication from 10 March 2009, Benedict speaks of "four bishops ordained validly but not legitimately," although they were not consecrated according to the Roman Pontifical of 1968/70 and the norms laid down by Paul VI. By contrast, on the traditionalist side, the sedevacantists, who in America (in contrast to Europe) would appear to be almost as strong as the St. Pius Society, broke with Lefebvre in 1983 precisely because, among other things, he refused unequivocally to declare ordinations according to the 1968/70 Pontifical invalid.[10]

I am most grateful to all four authors for helping, through their critical and discussion advancing contributions, to move the questions and problems involved here into a more profound international theological, canonical, ecclesiological, and liturgical-theological reflection.

University of Tübingen (*Emeritus*) PETER HÜNERMANN

[10]See Anthony Cekada, "The Nine vs. Lefebvre: We Resist You to Your Face" (2008), 5, 8, http://www.traditionalmass.org/images/articles/NineVLefebvre.pdf (accessed 11 October 2009).

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