CHAPTER XIII

ON THE CANONICAL CRIME OF HERESY

This chapter shows that Canon Law cannot be used to prove the Thesis to be wrong on account of any argument based on the crime of heresy.

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1. Canon Law does not invalidate the Thesis.

One of the central points of the Thesis is to establish that, despite their lack of authority *in the order of reality,* the "Vatican II popes" have not yet been declared to be false popes *in the order of law.* The Church being a perfect society, composed of a great number of members, she is ruled by law.

The question of the heretical pope is discussed in another chapter, in which it is proven that a pope losing the papacy through personal heresy still requires a juridical process to establish this loss of power in the order of law, so as to make it recognized universally by the Church.

This part of the Thesis is denied by some Catholics who, by a misunderstanding of the principles of Canon Law, make appeal to some canons of the 1917 Code, or to the bull *Cum ex Apostolatus* of Paul IV to establish the total vacancy of the Roman see, as well as of all the episcopal sees throughout the world. In their view, not only are the claimants to these episcopal sees not *in fact* endowed with authority, they further maintain that they do not have any *title* to it, and that all their acts are therefore invalid.

FIRST ARTICLE

THE DELICT OF HERESY

2. Heresy: doctrine, sin, delict.

Heresy can be understood in different ways, which ought to be clearly distinguished. When we speak of heresy, we may be referring to a *doctrine* which is heretical; or we may be talking about a grave *sin*, which is to knowingly and willingly adhere to a doctrine contrary to the faith (a heretical *doctrine*); and we may also be referring to heresy as a canonical *delict*, to which the Church's law has attached certain penalties.

These different meanings of the word "heresy" are related analogically: the *delict* (crime) of heresy supposes an external *sin* of heresy, to which it adds canonical (juridical) considerations; and the *sin* of heresy in turn supposes that a heretical *doctrine* is being held pertinaciously, that is, with the knowledge that it is contrary to the Church's magisterium.[1]

3. Heresy is a doctrine contrary to the faith.

First, a heresy, taken in its stricter meaning, is a proposition denying a truth belonging to divine and Catholic faith. This means that a heresy denies a truth (1) revealed by God, and which (2) has been proposed by the Church as having indeed been revealed by God, either by a solemn pronouncement or in her universal ordinary magisterium. Indeed the deposit of revelation, namely, all that God has revealed to mankind, is contained in Sacred Scripture and Tradition. But Christ has instituted the Church so that she may safeguard and define the content of this deposit of revelation. A truth is thus said to belong to *divine and Catholic faith* when the Church has taught that such a truth has been revealed by God. Such is the case, for example, of the truth of the Assumption of Our Lady. Hence to deny the Assumption of Our Lady is a heresy, since it clearly contradicts the definition of Pope Pius XII. Similarly, to deny the doctrine of guardian angels is a heresy, contradicting the teaching of the universal ordinary magisterium of the Church.

The Vatican Council defined the following:

> Wherefore, by divine and Catholic faith all those things are to be believed which are contained in the word of God as found in Scripture and Tradition, and which are proposed by the Church as matters to be believed as divinely revealed, whether by her solemn judgment or in her ordinary and universal magisterium.[2]

All things thus proposed by the Church, either by a solemn judgment or in her ordinary and universal teaching, as divinely revealed, is said to be *of divine and Catholic Faith*, and to deny such a doctrine is a *heresy*.

4. A heretic pertinaciously denies a truth of the faith.

A heretic is thus defined by the law of the Church (can. 1325 §2):

> After the reception of baptism, if anyone, retaining the name Christian, pertinaciously denies or doubts something to be believed from the truth of divine and Catholic faith, such a one is a heretic.

A heretic is therefore someone who adheres to a heresy, knowing that it is a heresy, viz. against the doctrine proposed by the Church. Thus for someone to be a heretic, two things are necessary: (1) that the doctrine adhered to is indeed truly heretical, i.e. *denying* a truth of the Catholic Faith; and (2) that this person is *pertinacious*, i.e. that he knowingly rejects a truth of the Catholic Faith, and is not excused by ignorance, or perhaps by having employed incorrect expressions.

5. Not every error or blasphemy is a heresy.

It follows from the above principles that not all the outrageous things uttered by the modernists are heresies, but many of their errors would be worthy of some lower censure, because they deny a doctrine which is not considered to be immediately revealed or which has not yet been proposed by the Church as such. Nonetheless, the "Vatican II popes" have also clearly denied truths which would be classified as being of *divine and Catholic Faith*. Thus the existence of hell has been denied by Bergoglio on a number of occasions.

6. Heresy as a *delict*.

When heresy is externalized, it is a violation of the social order, and therefore punishable by law. It becomes a *delict*.[3] In order that there be a real delict of heresy, however, it must be externalized, and it must be morally imputable. Hence, it must first be a pertinacious sin of heresy, and it must, secondly, be externalized. An internal sin of heresy, consequently, does not fall under the law. The delict of heresy has canonical consequences and penalties attached to it.

In 1932, an entire dissertation on the delict of heresy was submitted to the faculty of Canon Law of the Catholic University of America, as a requirement for the obtention of the degree of doctor of Canon Law. Needless to say, this work is very valuable, and has been the object of minute scrutiny by Canon Law experts. The author of this dissertation, the then Reverend Eric MacKenzie, explains the difference between the sin and the delict of heresy in very clear terms:

> If there is nothing more than the erroneous judgment and the sinful will which have been described thus far, the Church will deal with the matter in the court of the

> internal forum, as part of the regular administration of the Sacrament of Penance. It is only when the sin of heresy is externalized that the individual is guilty of a delict, and subject to judgment in the external forum of the Church, and punishable by the penalties contained in the penal legislation of the Fifth Book of the Code of Canon Law.[4]

The canonical consequences follow the commission of a *delict* of heresy, which in turn presupposes that there was truly a *sin* of heresy, meaning that the person was morally guilty of having pertinaciously denied a truth of the Catholic Faith.

7. Heresy has canonical consequences inasmuch as it is a delict.

To justify a gratuitous dismissal of the arguments which we shall here produce, showing the conditions required for a delict of heresy to cause a canonical loss of office, some have argued that heresy is an impediment to a canonical election in the Church not as it is a canonical *delict*, but merely as it is a *sin*. It should now be clear that these claims are entirely vain, and show a misunderstanding of the question. Indeed, the *sin* of heresy, inasmuch as it is *external* and having *external consequences* is precisely what a *crime* or *delict* is. So one cannot reject all the Church's legislation and the teaching of theologians and canonists under the pretext that they are discussing the consequences of the *crime* of heresy, while one would be arguing about the canonical consequences of the *sin* of heresy. For the *sin* of heresy has canonical consequences only inasmuch as it is a *crime* (or *delict*). In other words, the Church made the external *sin* of heresy to be a *delict*, precisely in order to specify what are the canonical consequences of the external *sin* of heresy.

Thus the Jesuit theologian Suarez clearly teaches:

> When treating the penalties of heretics, we shall show in general that no one is deprived by divine law of any dignity or ecclesiastical jurisdiction on account of the sin ["*culpam*"] of heresy.[5]

If one is striving to argue that an election is canonically invalid, one must prove it canonically. Otherwise the entire election process would be subject to arbitrary and unverifiable claims about the internal forum of the elected person. In the civil order, this would be tantamount to suppressing the rule of law and the principle of due process, leaving to each one the power to declare any official as illegitimate.

A few people have tried to apply these erroneous principles to popes back to Leo XIII, whom they accuse of being a heretic for having allowed Cardinal Gibbons to participate in the 1893 World's Parliament of Religions.[6]

SECOND ARTICLE

PENAL SANCTIONS TO THE DELICT OF HERESY

8. Canon 2314 describes the process of penalties incurred for the delict of heresy.

All heretics incur an excommunication *ipso facto* (i.e., by the mere commission of the delict of heresy), according to can. 2314 §1, 1. Its absolution is reserved to the Holy See in the internal forum (i.e., in confession), but if the delict comes to the external knowledge of the Ordinary, the latter can absolve it externally after an abjuration, and the heretic may then be absolved in the internal forum by any confessor (can. 2314 §2).

If they give their names to non-Catholic sects or publicly adhere to them,[7] they are by that fact infamous[8] (can. 2314 §1, 3) and lose their office *ipso facto* (automatically) without any declaration. This is called tacit renunciation[9] (can. 188 §4, confirmed by can. 2314 §1, 3). After a fruitless warning, clerics are degraded[10] (can. 2314 §1, 3).

Formal heretics who have not given their names to, or adhered to, a non-Catholic sect, after a first warning are liable to a *ferendae sententiae*[11] penalty by which they shall be deprived of any benefice, dignity, pension, office or any other function which they had in the Church, and they shall be declared infamous (can. 2314 §1, 2). Clerics, after a second fruitless monition, must be deposed[12] (can. 2314 §1, 2).

The distinction between *deposition* and *degradation* is thus explained by MacKenzie:

> By deposition, a cleric is deprived permanently of all offices, benefices, dignities, pensions and functions in the Church, and becomes incapable of acquiring them in the future; but he is not deprived of clerical privileges, and is not reduced to the status of a lay person. Degradation includes deposition, and adds further penalties to it. Thus a degraded cleric is not merely deprived of any place or position, not merely made incapable of acquiring them in the future, but likewise is perpetually deprived of the right to wear clerical dress or to claim clerical privileges. He retains the power conferred upon him by ordination, since nothing can change or remove the character imprinted by the Sacrament of Holy Orders; but although the exercise of Orders would

> be valid, he is forbidden so to act, and hence any exercise of the power of Orders is illicit.[13]

9. The six grades of the delict of heresy, according to Regatillo.

The canonist Regatillo[14] summarizes the content of canon 2314 in six grades, to which are associated the following penalties:

1. *A simple delict of heresy*, i.e. someone commits externally a *formal sin* (hence there is guilt) of heresy. To this is automatically attached an *excommunication*, without the need of any declaration by anyone.
   For example, someone says that hell does not exist, knowing very well that the existence of hell is a dogma. By that very fact, this person is under excommunication.

2. *After one monition*, i.e. someone has been warned by his bishop and called to repent but ignores this warning. This person is now liable to be deprived by the bishop of any benefice, dignity, office, function, that he may possess in the Church. This privation is, however, only happening through the superior's sentence.

3. *After a second unfruitful monition to a cleric.* The superior must now proceed to the *deposition* of the cleric, which entails, in addition to the previous loss of any office and benefice (already incurred after the first unfruitful monition), the *legal incapacity* to accept any office and benefice in the future.

4. *An inscription to a sect*, i.e. one gives his name to a false church or a pagan religion. This produces an automatic *infamy of law*, without the need of any declaration or enforcement by the superior. This infamy of law makes one unable to acquire any further office or benefice, for as long as this infamy exists.

5. *A public adherence to a sect,* by attendance and co-operation in religious practices, entails *for a cleric* an *automatic loss of office,* according to canon 188, 4. This happens when a cleric formally joins a non-Catholic sect, or publicly lives in accordance with its tenets and its practices.

6. *Remaining in a sect, despite the warning, for a cleric,* results in being liable to *degradation,* to be enforced by the superior. Degradation entails the reduction of the cleric to the lay state, even if he should afterwards repent.

10. The purpose of the warnings.

It is important to understand the purpose of the two corrections (formal warnings), provided for in the process outlined in canon 2314, as a form of a penal remedy: it is meant both to be a punishment, and to provoke the guilty person to repentance.

In the case of the delict of heresy, a monition is not necessary in order to incur the excommunication, since it is automatically attached to the delict. For as soon as the heresy is external and formal, there is a delict of heresy, to which is automatically attached an excommunication. What is the purpose of the monitions? The purpose of the monitions is to establish juridically beyond any reasonable doubt the pertinacity of a person, before inflicting on that person the canonical penalties which have direct consequences on the validity of certain ecclesiastical acts.

11. Presumption of guilt [“*dolus*”] in the Code.

Canon 2200, §2 presumes guilt in the external forum when a delict is committed, and has therefore been used in arguments against the Thesis. It reads as follows:

> Canon 2200
>
> §1. Here, dolus is the deliberate will to violate a law and is countered on the part of the intellect by a lack of knowledge and on the part of the will by a lack of freedom. [15]
>
> §2. Positing an external violation of the law, dolus in the external forum is presumed until the contrary is proven.

This canon, however, does not mean at all that judicial processes and warnings are useless, with an idea that one could rashly judge everyone guilty as soon as a law is externally infringed. What this canon actually means is that, in a canonical process, once the fact of an external infringement of the law is established, the burden of proof of a possible absence of guilt is on the accused. In a civil trial, the principles are similar: no one is presumed guilty of being a murderer before the law, obviously. Yet, in court, once it is proven that a person is responsible for the death of another, the burden of proof is on the murderer to prove that he, perhaps, did it without moral guilt; for example: that it was an accident. This principle of presumption of innocence is maintained by the Code of Canon Law, and thus the meaning of canon 2200 ought to be correctly understood:

> The force of canon 2200, §2, is to presume that the delinquent knowingly and deliberately violated the law when two facts are established beyond doubt: first, that the law was actually violated (the delictual fact); second, that this particular individual was the cause of the delictual violation of the law. It does not imply that the law presumes a man guilty when he enters the court before he has been proved guilty. In fact, the contrary is true: ‘*Bonus quilibet praesumitur donec probetur malus.*’ [16] The presumption that a man is good ceases when it is established that he actually

> committed a crime and the burden of proving that the dolus does not exist rests with the accused.[17]

Hence canon 2200 does not at all support the idea that canonical trials are unnecessary, but rather confirms a common principle of both civil and ecclesiastical law concerning the presumption of moral guilt, in a court, when the external infringement of the law is canonically established.

12. The penalty attached to a simple delict of heresy: automatic excommunication.

If a monition has not been issued, the only penalty incurred by a heretic (outside of the case of one adhering to a non-Catholic sect) is the automatic excommunication attached to the simple commission of the delict. Hence the question arises: Is this automatic excommunication enough to establish a loss of office, or to render any elections invalid? The answer is clearly **negative**.

If this automatic excommunication also deprived the heretic of his office, then canon 2314, §1, 2, would become unintelligible. Furthermore, this is confirmed by canon 2265, when explaining the consequences of such an excommunication:

> §1. Anyone excommunicated:
> 1. Is prohibited from the right of electing, presenting, or appointing;
> 2. Cannot obtain dignities, offices, benefices, ecclesiastical pensions, or other duties in the Church;
> 3. Cannot be promoted to orders.
> §2. An act posited contrary to the prescription of §1, nn. 1 and 2, however, is not null, unless it was posited by a banned excommunicate or by another excommunicate after a condemnatory or declaratory sentence; but if this sentence has been given, the one excommunicated cannot validly pursue any pontifical favor, unless in the pontifical rescript mention is made of the excommunication.

What this canon means is that someone having incurred an automatic excommunication (i.e. one which has not been inflicted by the superior, but which is attached to the simple commission of a delict) should refrain from elections and appointments. The person is bound in conscience to observe this, and ordinarily commits a sin by ignoring this excommunication. **However, these acts would still be valid, should they be posited, unless the person has been juridically** *declared* **by his bishop to have committed the delict and therefore incurred the excommunication.**

A simple excommunication, which one would have incurred by a delict, without any intervention of a sentence from the superior, is not sufficient to render ecclesiastical acts

invalid.

MacKenzie clearly applies this canonical principle to the automatic excommunication incurred by the delict of heresy, as stipulated in canon 2314. While commenting on canon 2265, he writes:

> The second section of this canon states that heretics and other excommunicates cannot acquire any ecclesiastical dignity, office, pension, or other charge, even by the action of others. This legislation is further qualified to indicate that unsentenced heretics are only illicitly placed in office, while sentenced heretics whether *tolerati* or *vitandi*, are invalidly elected or appointed, and do not receive the office at all.[18]

In addition to this, the reader should be aware that canon 2227, §2, expressly excludes Cardinals from such penalties:

> Canon 2227, §2: Unless expressly named, Cardinals of the Holy Roman Church are not included under penal law, nor are Bishops [liable] to the penalty of automatic suspension and interdict.

It must now be clear to the reader that the simple excommunication incurred by the commission of a delict of heresy is not sufficient to invalidate canonical acts. In fact this automatic excommunication does not even apply to Cardinals.

13. Are there no further penalties?

What about the other penalties of canon 2314? They are incurred after a fruitless monition, and ought to be inflicted by the superior (they are *ferendae sententiae* penalties).

However, infamy of law can be incurred without any decision from the superior if one were to adhere to or be enrolled in a non-Catholic sect. The consequences of an infamy of law are described in canon 2294:

> Canon 2294, §1: Whoever labors under infamy of law not only is irregular according to the norm of canon 984, n. 5, but moreover is incapable of obtaining benefices, pensions, offices and ecclesiastical dignities, and of conducting legitimate ecclesiastical acts, of exercising rights and ecclesiastical responsibilities, and even must be prevented from exercising ministry in sacred functions.

Therefore, someone who joins a non-Catholic sect is rendered unable to obtain any new office in the Church, and would also lose any office possessed at the time of the delict in

virtue of canon 188 §4. Canon 2314 makes mention of canon 188, although it seems that canon 188 is not a penalty,[19] strictly speaking, but simply a "tacit renunciation".

Thus apart from the case of those who openly leave the Catholic Church and tacitly renounce any office they may have held, it is clear that nothing in Canon Law prevents an unsentenced heretic from validly electing or being elected to an office in the Church, despite having incurred an automatic excommunication.

14. Confirmation from canon 167.

We find further confirmation of this in canon 167,[20] which explicitly treats of electors:

> §1. The following cannot cast a vote:
> 1. Those incapable of a human act;[21]
> 2. Those below the age of puberty;
> 3. Those affected with a censure or infamy of law, though after a declaratory or condemnatory sentence;
> 4. Those who have given their name to a heretical or schismatic sect or who publicly adhere to the same;
> 5. Those lacking an active voice either from a legitimate sentence of a judge or by common or particular law.

It is evident that someone guilty of a delict of heresy, but who has not been restrained by a declaratory or condemnatory sentence, and has not given his name to a non-Catholic sect, can still validly elect.

We may here repeat the words of MacKenzie to conclude:

> **The external enforcement of laws against heretics as heretics, always involves some juridical process.** This process may have various stages, marked by the judicial sentences imposed: a declaratory sentence that excommunication has been incurred by a delict of heresy; a sentence of juridical infamy; deprivation of offices, benefices, etc.; deposition and degradation. The issuance of any of these sentences (save the declaratory sentence), requires canonical warnings and trials, with full observance of the criminal code in all details of the process. [Emphasis added][22]

15. Objection based on the retroactivity of canon 2232, §2.

We have argued above that unsentenced simple heretics (who have not joined a heretical sect) can validly elect and be elected to offices in the Church, according to the 1917 Code of Canon Law, and particularly according to the express wording of canon 167. Against

this it is sometimes objected that this would contradict canon 2232, §2. This canon does indeed establish the following:

> A declaratory sentence makes the penalty retroactive to the moment of committing the delict.

Since the vote of a declared heretic is invalid, it is argued that every vote he may have casted since the commission of a delict of heresy would be invalid, even before the declaratory sentence, on account of the principle of retroactivity.

Despite the fact that such an understanding would contradict the express content of canons 167 and 2265, presented above, it has indeed been defended by one canonist:

> Note that the declaratory sentence starts at the moment of perpetration of the crime for which it was inflicted, whilst a condemnatory sentence must be formally pronounced in order to take effect. Hence if one had committed a crime deserving of censure by a declaratory sentence, even though he would be declared guilty only at or after the election, his vote would be null and void.[23]

This interpretation is, however, unanimously rejected by other canonists, since it openly contradicts the express wording of the Code, as presented above. A Canon Law dissertation dedicated to this question comments on this misinterpretation:

> Canon 2232, §2, points out that a declaratory sentence is retroactive to the time of the commission of the crime. An occasional author has applied this canon to canon 167, §1, n. 3, by saying that a vote when cast by a person under censure or infamy incurred *ipso facto* is rendered null by a later declaratory sentence. This interpretation is contrary to the explicit words of canon 167, §1, n. 3, which postulates a previously rendered sentence. It is also based on an erroneous conception of the meaning of the retroactivity of laws or sentences. A retroactive law can never alter facts, so that an act which once was valid will later become invalid.[24]

For the sake of the argument, we could also add that, supposing this false interpretation to be the correct one, and supposing that it might, in and of itself, invalidate an election, the elect would still have an apparent title, which is enough to call for suppliance from the Church, until his election be authoritatively declared invalid.

The dissertation quoted above continues its explanation by giving an important principle, relevant to a proper understanding of the current crisis:

> What happens is this: legal recognition is no longer accorded to a past valid act, so that the past act no longer presents a legitimate title for possession or operation. Retroactivity affects only the *presently enduring* effects of the past act. The present declaration of the censure or the infamy of law does not, therefore, render a person disqualified in the past, nor does it make his past vote invalid.[25]

Commenting on the retroactivity of automatic penalties, the famous *Dictionnaire de Droit Canonique* says exactly the same thing: canon 2232 does not mean that past ecclesiastical acts were invalid.[26]

We have thus clearly and undoubtedly established that an unsentenced simple heretic, that is, someone guilty of a delict of heresy but still claiming to be a member of the Catholic Church, can validly elect and be elected in the Church. No automatic penalty would deprive him of this faculty. In fact, the 1917 Code of Canon Law explicitly confirms it.

Since, however, canon 188, 4 is not strictly speaking a penalty, but rather entails a *tacit renunciation* to an ecclesiastical office as an automatic consequence of the public defection from the faith, we deem it worthy of a particular analysis, to explain its import and its application.

THIRD ARTICLE

TACIT RENUNCIATION BY PUBLIC DEFECTION

FROM THE CATHOLIC FAITH ACCORDING TO CANON 188

16. Presentation of canon 188.

Canon 188 belongs to the second book of the 1917 Code of Canon Law (On Persons), First Part (On Clerics), Section 1 (On Clerics in general), Title 4 (On ecclesiastical office), Chapter 2 (On the loss of ecclesiastical offices). The content of Canon 188 is as follows:

> Any office becomes vacant upon the fact and without any declaration by tacit renunciation recognized by the law itself if a cleric:
> 1. Makes religious profession with due regard for the prescription of Canon 584 concerning benefices;
> 2. Within the useful time established by law or, legal provision lacking, as determined by the Ordinary, fails to take possession of the office;
> 3. Accepts another ecclesiastical office incompatible with the prior, and has obtained peaceful possession of it;
> 4. Publicly defects from the Catholic faith;
> 5. Contracts marriage even, as they say, merely civilly;
> 6. Against the prescription of Canon 141 §1, freely gives his name to the secular army;
> 7. Disposes of ecclesiastical habit on his own authority and without just cause, unless, having been warned by the Ordinary, he resumes wearing it within a month of having received the warning;
> 8. Deserts illegitimately the residence to which he is bound and, having received a warning from the Ordinary and not being detained by a legitimate impediment, neither appears nor answers within an appropriate time as determined by the Ordinary.

Our current study will be limited to n. 4 of this canon, but the other numbers listed in this particular canon will be of assistance in order to understand its nature.

17. Canon 188 applies to heretics, as a consequence of a delict of heresy.

Tacit renunciation intervenes "if a cleric... publicly defects from the Catholic faith" (Latin: "*si clericus... a fide catholica publice defecerit*").

The public defection mentioned here certainly includes both *apostasy* and *heresy*. The question as to whether *schism* is included in this canon is disputed among canonists, but this dispute does not enter into our study here.

Contrary to the apostate, the heretic does retain the Christian name (according to the definition given by canon 1325) whereas the apostate does not claim anymore to be a Christian. Since our goal is to evaluate the possible application of canon 188 to clergy who retain the Christian name, we will focus on the case of heresy.

Let it be clearly stated once more that we are considering renunciation tacitly contained in the *delict* of heresy, and not in heresy considered merely as a *sin*. Heresy has juridical consequences only inasmuch as it is a delict, as has been explained before.[27]

Since, however, tacit renunciation is not a penalty, strictly speaking, the cardinals themselves are not exempt from it, whereas they were exempt from the penalties presented earlier on in our study. Thus explains McDevitt (*op. cit.*, p. 156):

> A tacit renunciation of an ecclesiastical office is not a penalty, even though some of the acts which effect such a renunciation are criminal acts. Therefore, Cardinals are subject to the prescriptions of canon 188.

18. Canonical warnings are not necessarily required.

It would be false to state that the loss of office due to the delict of heresy could only happen after a canonical warning, since a delict can occur before any warning. Most of the time, however, this warning will be necessary in order that the pertinacious delict be made public and indisputable for the common good of the Church, and the provisions of canon 2314 clearly ask for their use.

Number 4 of canon 188 (which is the focus of our attention here) does not require a canonical warning, as we have seen it described in canon 2314.

There are cases where the defection from the faith and tacit renunciation are evident to all. For example, if a cleric leaves the Catholic Church and joins a non-Catholic sect, though this is not the only way in which this canon may be fulfilled. For example, tacit renunciation of an office would also occur if a priest were to abandon his parish and repudiate the faith, even if he would not join any other religion.

19. Canon 188 works with canon 2314.

The Code of Canon Law is a systematization of the Church's law, and therefore its canons should be understood in harmony with each other, especially when one canon explicitly refers to another. Such is the case of canons 188 and 2314.

Tacit renunciation described in canon 188 has to be understood in conjunction with canon 2314. Thus it is clear that canon 188 does not apply to ordinary delicts of heresy, which would then follow the process in n. 2 of canon 2314 §1:

> Canon 2314: §1. All apostates from the Christian faith and each and every heretic or schismatic: ... 2. Unless they respect warnings, they are deprived of benefice, dignity, pension, office, or other duty that they have in the Church...

Instead, canon 188 is applied according to the n. 3 of this same canon:

> 3. If they give their names to non-Catholic sects or publicly adhere [to them], they are by that fact infamous, and with due regard for the prescription of canon 188, n. 4, clerics, the previous warnings having been useless, are degraded.

Commenting on this last provision from the Code, McDevitt explains:

> It is plainly evident that a distinction is being made between the threatened or enacted penalty on the one hand, and the tacit renunciation on the other.

20. A tacit renunciation is not a penalty, and does not need to be enacted by a superior. It is effected by the very placing of certain acts, even if the person should manifest his intention of retaining the office.

This is obvious from the very words of the canon, and is confirmed by the interpretations of canonists. McDevitt (*op. cit.*, p.113-117) thus explains:

> As the law itself states, the placing of any of the acts mentioned in this canon effects the vacancy of the cleric's office without the need of any declaration on the part of the superior.
>
> In a tacit renunciation no formalities are prescribed. All that is necessary is that the cleric perform one of the acts or be accountable for one of the omissions to which the law attaches the effect of a tacit renunciation of office.
>
> The vacancy of the office is effected by the placing of these acts, even if the person should manifest his intention of retaining the office at the time he places the act. The tacit renunciation occurs in spite of any contrary intention on the part of the incumbent.
>
> In this canon the law is not imposing a penalty, but is rather accepting the specified acts as tantamount to an express renunciation of office.
>
> It is true that some of the acts enumerated in canon 188 constitute delicts, and have special penalties attached to them, but the effect of a tacit renunciation is not to be considered in the nature of a canonical penalty.
>
> In treating of public defection from the faith, Coronata notes that the tacit renunciation which results in consequence of this defection is not strictly the effect of a penal sanction.

21. Public defection of the faith mentioned in another place of the Code.

Public defection from the Catholic faith is mentioned in canon 1065, dealing with marriage, and commentaries on this canon will be of assistance to the reader to understand the import of the notion of public defection from the faith.[28]

The author referred to by McDevitt for that purpose thus summarizes the teaching of canonists on that question, speaking first of the delict of apostasy which would qualify to be considered a public defection from the Catholic faith:

> It must be *notorious*, that is, so publicly certain as to the fact and the guilt that it can in no way be concealed or excused. As Chelodi explains it, both the act and the wrong intention must be so apparent to the people that there is no room left for even a slight doubt about either. Roberti gives as examples of such notorious defection from the faith a declaration or profession by the delinquent in books, periodicals, or public conversations that he is a non-Catholic, a request made to his pastor to expunge his name from the parochial registers of the faithful, or on the occasion of a public census, a declaration that he belongs to no religion at all.[29]

> The element of notoriety thus limits greatly the number who will be affected by the prescriptions of canon 1065 because of the delict of apostasy, for it requires that the guilt of the delict be so obvious either *de jure* or *de facto* that it cannot be disputed.[30]

> The delict does not become notorious by the mere external manifestation of the sinful mind, but only when to all appearances and in the common opinion of the community the delinquent knew that he was breaking the law and willed to do so.[31]

Commenting on the case of Catholics fallen into heresy, the same author continues:

> If the guilt of the heretic is publicly known by the community as unconcealable and inexcusable, his delict is *notorious*. A notorious delict cannot be merely presumed to be such by virtue of canon 2200, §2, for the assumed presence of *notorious* guilt in a delict is not based upon a presumption of law. It is based upon evidence in the act itself that is so certain, both as to the fact of the violation and as to the guilt of the delinquent, that there can be no doubt concerning either element.[32]

> As in the case of apostates, so, too, in the case of heretics, the prescriptions of canon 1065 do not apply strictly to a Catholic who is guilty simply of heresy. He must be a *notorious* heretic, that is, one whose heresy is publicly known by the community as unconcealable and inexcusable, or has been condemned by a judicial sentence. If there is any doubt about the presence of heresy strictly so-called, or about the notoriety of

> such heresy in a particular instance, such a case will not come within the scope of canon 1065.

22. Application.

In the present situation, we are not dealing with clergy who have joined or publicly adhered to a non-Catholic sect, such as the Lutheran Church, or the Anglican Church. Neither are we dealing with clergy who have clearly renounced their offices by publicly rejecting the Catholic name.[33] On the contrary we are dealing with clergy who, despite the fact of saying heretical things, are very eager to claim that they are Catholics, and that they have authority, functions, and offices in the Catholic Church. Catholics of any given diocese do not commonly consider their bishop to be a notorious heretic, by this notoriety according to which the community as a whole considers that neither the crime nor the guilt can be denied or excused in any way whatsoever. It will be, therefore, in the great majority of cases, utterly impossible to argue the loss of office based on the tacit renunciation spoken of in canon 188.

23. Canon 188 and supplied jurisdiction.

Suppose the hypothesis that a clergyman lost his office, and therefore also lost jurisdiction, in virtue of canon 188. If he were to pretend to stay in office, and the people had recourse to him, his acts of jurisdiction, although invalid in themselves, would in fact become valid by the principle of supplied jurisdiction, explicitly ascertained by canon 209 of the 1917 Code of Canon Law.

A canonist has written an entire dissertation on this question, and we will here quote excerpts of his explanation:

> When a person makes reference to the operation of the suppletory principle, he means that the power of jurisdiction which must be present for the validity of a certain act is wanting, and the Church must make up for this deficiency at the moment of the performance of the jurisdictional act. It does not matter for what reasons jurisdiction is lacking. It may be that this jurisdiction was never conferred upon the priest. It may have been conferred, but invalidly... Or it may have been conferred validly but was subsequently lost by the one who possessed it.[34]

The same author gives then a reference to canon 188 as one of the cases where it could apply:

> Certain actions are presumed under the law to signify an incumbent's tacit renunciation of an office.[35]

He further comments:

> And regardless of whether the incumbent of such an office retain his position and continue to exercise his official duties in good faith or in bad, objectively his jurisdictional actions would be a source or real peril to the common good were they not validated from the very moment of their performance, by the suppletory principle of canon 209. The *raison d'être* of this canon may be said to be especially fulfilled in instances of the exercise of such power.[36]

> Once the common error is verified to the effect that a certain person is commonly regarded to be the legitimate incumbent of a certain office, it follows that all his jurisdictional acts are thereafter valid as long as this common error persists.[37]

As a conclusion, therefore, we must affirm that the Code of Canon Law itself establishes a principle of supplied jurisdiction, for the common good, to validate ecclesiastical acts of clerics who would have lost their office and their jurisdiction by the tacit renunciation of canon 188.

24. The 1983 Code explicitly requires an authoritative declaration.

It is worth noting that the 1983 Code of Canon Law, in canon 194, namely the canon which replaced canon 188 of the 1917 Code, explicitly requires the intervention of the authority in order for the canon to take effect. Canon 194 thus reads:

> §1 The following are removed from ecclesiastical office by virtue of the law itself: 1° one who has lost the clerical state; 2° one who has publicly defected from the Catholic Faith or from communion with the Church; 3° a cleric who has attempted marriage, even a civil one.

> §2 The removal mentioned in nn. 2 and 3 can be insisted upon only if it is established by a declaration of the competent authority.

According to this new 1983 Code, therefore, the automatic loss of office happens only once the declaration is done by the authority. Even if we contest the authority of this Code, promulgated by John Paul II, who was not truly (*formally*) pope, nonetheless it cannot be denied that this canon would grant a further apparent title, which would guarantee, at the very least, the supplied jurisdiction explained above.

It also shows as vain the use of canon 188 of the 1917 Code of Canon Law as the main argument to prove that the "Vatican II popes and bishops" have lost their office, as some

have done, since this would require a petition of principle: for if the "Vatican II popes" are true popes, then canon 188 of the 1917 Code is replaced by canon 194 of the 1983 Code. Thus, to refer to canon 188 of the 1917 Code, one must have *already* proven the "Vatican II popes" to be not in fact real popes.

25. Application to the pope.

Although we did not intend in this chapter to speak directly of the question of the heretical pope, it is nonetheless interesting to mention that theologians have commonly applied the same principles to this hypothetical case. Billuart[38] explains it in very clear terms:

> Others receive their jurisdiction from the Church, who continues it for them [by supplying for the lack of it in case of notorious heresy]. But the Supreme Pontiff does not receive his jurisdiction from the Church, but from Christ. And nowhere is it declared that Christ continues to maintain jurisdiction to a Pontiff who is a manifest heretic, since the Church can recognize this [namely, that the pope has become a notorious heretic], and since the Church can provide herself with another pastor. The more common opinion holds, however, that Christ would maintain jurisdiction to a Pontiff even manifestly heretical, by a special dispensation, for the common good and the tranquility of the Church, until he be declared by the Church to be a manifest heretic.[39]

It should be noted here, lest the reader be mistaken, that Christ *could not*, and would not, supply jurisdiction, however, for acts contrary to the glory of God and the salvation of souls.

Applying these principles to the crisis of the Great Western Schism, for example, Wilmers says that if all the popes during the Great Western Schism had been dubious, Christ would have supplied jurisdiction to every one of them by reason of a colored title. He also clarifies that *not all acts of jurisdiction were valid*, but only those which were necessary for the government of the faithful. Analogically, the "Vatican II popes" do not receive supplied power indiscriminately, but only inasmuch as it is necessary for the common good of the Church.[40] Hence Christ could never grant supplied jurisdiction to a false pope to abrogate the traditional Mass and replace it with a rite tainted with heretical principles. But Christ could, and certainly would, in accordance with these principles, supply acts which are necessary for the very continuation of the Church, such as the appointment of papal electors.

In the same manner, the Church could not, through canon 209, supply jurisdiction to ecclesiastical acts ordered to the direct destruction of the Catholic religion. Hence, one

cannot invoke canon 209 to establish the valid promulgation and enforcement of Vatican II, the New Mass, and all the other evil laws and decrees issued by the "Novus Ordo" hierarchy.

In other words canon 209 and supplied jurisdiction can be invoked (1) where there is necessity, and (2) only in those cases where the common good of the Church or the good of souls requires it.

26. Conclusion.

It is evident that canon 188 does not give the canonical tools to conclude the invalid exercise of jurisdiction on the part of the "Vatican II popes and bishops." The criteria to apply the principle of tacit renunciation are very restrictive, and will not apply to the greater majority of them. In addition, even if we were to concede the application of canon 188 to some prelates, and thus conclude to their loss of office, the 1917 Code of Canon Law itself provides a suppletory principle to remedy it.

It should also be clear that the loss of office is not the same as a deposition, described above. A deposition certainly includes the loss of office, but it also imports the inability to elect, to be elected, and to accept a new office. This inability to elect or be elected enforced by a *deposition* is not itself contained in a pure *loss of office*.

To conclude, the use of merely canonical principles cannot, even remotely, prove any kind of widespread automatic deposition from offices of the "Vatican II popes and bishops," which has been argued against the Thesis. Therefore, while it is true that these "Vatican II popes and bishops" do not have the authority of Christ to teach, rule, and sanctify the faithful, they have not, however, lost their canonical titles to these offices, and have not been canonically deposed.

27. Is the law previous to the 1917 Code any different?

Having explained how the different canons of the 1917 Code must be understood, and having shown that far from being an objection to the Thesis, they actually confirm its principles, let us now do a similar study of another monument of the Church's legislation on the same question, namely, the famous "bull of Paul IV."

FOURTH ARTICLE

THE BULL OF PAUL IV

IS NOT A DOGMATIC DEFINITION BUT A PENAL LAW

28. What is the "bull of Paul IV?"

When speaking about the "bull of Paul IV" we are of course referring to the constitution *Cum ex Apostolatus*, promulgated by Paul IV on February 15th, 1559. This bull has become famous both from the fact that it speaks about the invalidity of election due to heresy, and from the fact that it is mentioned by Cardinal Gasparri as one of the sources of canons 167, 188, and 2314.

Many things have been said concerning this bull and its interpretation. We shall proceed methodically, and based on indisputable authority, we shall explain its real import. First, we shall show that this bull is not a dogmatic definition, but a penal law. Later, we shall discuss the question of its current value according to the current 1917 Code of Canon Law. Lastly, independently of its current force or lack thereof, we shall consider whether this bull would invalidate the Thesis of Cassiciacum, as some of our opponents are claiming.

29. The bull of Paul IV is a penal law.

This chapter will be of little interest for clergy, who should be more familiar with ecclesiastical sciences. It is evident to any canonist that the *Cum ex Apostolatus* constitution is a disciplinary document, a penal law (the very introduction given to it by the *Bullarium*[41] actually indicates this), and certainly not a dogmatic definition, as some people have falsely claimed, in order to give more "prestige" and "weight" to their argumentation. Nonetheless, since it is often difficult for the laypeople to form a clear and certain judgment on this issue, due to the confusion caused by the abundance of articles and documents written by uneducated people but sadly readily available on the internet, we will here quote at length an extract from the works of Cardinal Hergenröther.[42]

30. Cardinal Hergenröther was an eminent theologian and canonist.

Joseph Hergenröther, born on September 15th, 1824, in Würzburg (Bavaria), distinguished himself very early on for his remarkable intellectual abilities. He obtained a doctorate in theology, before teaching canon law and history (he is particularly known for his scholarly works on the history of the Church). Throughout his life he gave a precious contribution to the development of ecclesiastical sciences. His contributions were of such note that he was named as consultor for the Vatican Council by Pope Pius IX. In this same council, he showed himself, along with Hettinger, to be among the chief defenders of

papal infallibility in Germany, and an ardent opponent of the liberals and anti-infallibilists. He is known, among other things, for his famous *Antijanus*, an answer to Döllinger, the founder of *Old Catholicism*, who was then writing under the pseudonym of *Janus*. Hergenröther was made a prelate by Pope Pius IX as a reward for his many works, and later on he was created a Cardinal by Pope Leo XIII. He was also an eminent member of many Roman Congregations. He died on October 3rd, 1890, after a long life entirely dedicated to the defense of the Catholic Church. Cardinal Hergenröther is therefore very well acquainted with the question at hand.

31. Context of this study.

In the 19th century, anti-infallibilists and liberals were seeking an argument in an attempt to disprove papal infallibility. One of the many false arguments used by the opponents of papal infallibility was to present the doctrine of infallibility as if this doctrine meant the pope was infallible in such matters as "telling the time" among other absurd claims. Liberals strove to demonstrate that certain documents, which had always been considered merely disciplinary, were classified as infallible statements, and yet have changed, or have been abandoned. More specifically the liberals tried to portray the famous bull of Paul IV as being an infallible dogmatic statement, thinking they would thus show papal infallibility to be ridiculous.

Against this claim, cardinal Joseph Hergenröther, in one of his works,[43] explains that the bull of Paul IV is not a dogmatic definition, but rather a penal law. We will here quote this passage at length, but without its original footnotes, which are not relevant to our purpose.

32. Explanation of Cardinal Joseph Hergenröther.

> Appeal is also made to the bull of Paul IV, *Cum ex Apostolatus Officio*, of 15th Feb. 1559, to which our opponents are most eager to attach the character of a dogmatic *ex cathedra* decision, saying that if this bull is not a universally binding doctrinal decree (on the point of the papal authority), no single papal decree can claim to be such. But none of the exponents of dogmatic theology have as yet discovered this character in the bull, which has been universally regarded as an emanation of the spiritual penal authority, not a decision of the doctrinal authority. We see the tactics of the Church's opponents have been reversed: formerly the Jansenists and lawyers of the French parlement denied that the bull *Unigenitus* was dogmatic, though all Catholic theologians regarded it as such; now the Janus party and jurists who protest against the Vatican Council assert that the bull of Paul IV is dogmatic, though all Catholic theologians deny it to be such. In truth neither the wording of this last-named bull, nor its contents as a whole, nor the rules universally received among theologians, allow it to be regarded as a dogmatic decision. If there is to be a doctrinal decree binding on all,

it is requisite that a doctrine to be held or proposition to be rejected be placed before the faithful in terms implying obligation, and be prescribed by the full authority of the Church's teaching office. This is not the case with this bull. True enough in the *introduction* the Papal power is spoken of, and in accordance with the view of it held universally in the Middle Ages. But here, as in every other bull, the rule already spoken of holds good, that not the introduction and the reasons alleged, but simply and only the enjoining (dispositive) portion, the decision itself, has binding force. Introductions quite similar are to be found in laws relating purely to matters of discipline, as any one may see who consults the *Bullarium*. As to the enjoining portion of the bull in question, it only contains penal sanctions against heresy, which unquestionably belong to disciplinary laws alone.[44] To deduce from the introduction a doctrinal decision on the Papal authority is simply ridiculous. This has been seen by other opponents, who have not therefore, like Janus and Huber, deduced a dogmatic definition from the Pope's introductory words, but have deduced from the enjoining portion a definition as to morals. 'For how a Catholic should behave towards heretics and heretical rulers, whether an action be theft or lawful occupation, whether one is bound in conscience to recognize a claim for succession or other legal claims, – these and similar questions must be reckoned as belonging to Christian morality even by the most milk-and-water infallibilist.'[45] Such a statement in any one who has really read the bull leaves us little hope that he understands at all what he is speaking about. Paul IV renews the earlier censures and penal laws, which his predecessors, acting in concert with the emperors, had issued against various heresies; he desires that they be observed everywhere, and put in force where they have been unenforced. The point, then, is about the practical execution of previous penal laws, which by their nature are disciplinary, and proceed not from divine revelation, but from the ecclesiastical and civil penal authority.[46] Besides the renewal of old there is an addition of new punishments, which equally belongs to the sphere of discipline. Many sentences are entirely modeled on civil laws, e.g. those of Frederick II (1220). The Pope does not here speak as teacher (*ex cathedra*), but as the watchful shepherd eager to keep the wolves from the sheep, and in a time when the actual or imminent falling away even of bishops and cardinals demanded the greatest watchfulness and the strongest measures. The bull of Paul IV may be perhaps considered too severe, injudicious, and immoderate in its punishments, but it certainly cannot be considered an *ex cathedra* doctrinal decision. No Catholic theologian has considered it as such, or placed it in a collection of dogmatic decisions; and to have done so would have only deserved ridicule; for if this bull is to be considered as a doctrinal decision, so must every ecclesiastical penal law. Papal infallibility, it is most true, excludes any error as to moral teaching, so that the Pope can never declare anything morally bad to be good, and vice versa; but infallibility only relates to moral precepts, to the general principles which the pope prescribes to all Christians as a rule of conduct, not to the application of these principles to individual cases, and thus by no means excludes the possibility of the pope making mistakes in his

government by too great severity or otherwise. His infallibility, which is his only as teacher, preserves him indeed from falsifying the doctrines of the Church as to faith and morals, but is no security that he will always rightly apply these doctrines, and never personally commit any offense against them.

But it is said: 'This Bull is directed to the whole Church, is subscribed by the cardinals, and thus has been published in the most solemn form, and is certainly *ex cathedra*.' These characteristics, however, do not suffice for a dogmatic doctrinal decision. Universally binding laws as to discipline have also been subscribed by the cardinals, and solemnly proclaimed. Even the bull *Cum Divina* of Alexander VII (26th March 1661), which imposed on all ecclesiastical property in Italy certain tithes to help the Venetians in their struggle against the Turks, was subscribed by the cardinals. And other papal disciplinary laws have been issued 'out of the fulness of power' (*de plenitudine potestatis*); the word 'define' is used in other places also of judicial judgments; and laws designated as to be in force for ever (*constitutio in perpetuum valitura*) have been soon afterwards repealed, because they were found to be of no service to the Church. The sort of proofs our opponents bring forward in this matter show an entire ignorance of papal bulls. Compare, for example, another bull of the same Pope directed against the ambitious endeavors of those who coveted the papal dignity; this bull has equally the agreement of the cardinals, is published out of the plenitude of the papal power, is declared to be forever in force, threatens equally all spiritual and temporal dignitaries without exception, etc. And yet it is undoubtedly not in the least a dogmatic bull. If it were, there would be scarcely any recent ecclesiastical laws (as opposed to dogmas) for canonists to discuss; while dogmatic theologians would have been all in strange ignorance of their province.

33. Conclusion on this point.

Cardinal Hergenröther is thus very clear: the bull of Paul IV is a penal law, whose enjoining portion "only contains penal sanctions against heresy", and the cardinal claims to be in agreement with all canonists and theologians, in addition to being in agreement with the very introduction given to it by the *Bullarium*.[47] The bull is all about "the practical execution of previous penal laws" which "proceed not from divine revelation."

FIFTH ARTICLE

THE PRESENT FORCE OF THE BULL OF PAUL IV

34. The bull *Cum ex Apostolatus* is not in force anymore.

This is abundantly clear to canonists such as Coronata who, while discussing the present discipline of the election of a pope, merely mentions it in a footnote, as if it were something evident to all: *"non viget amplius Constit. Pauli IV 'Cum ex Apostolatus Officio' 15 febr. 1559"*,[48] that is: "the Constitution *Cum ex Apostolatus Officio* of Paul IV, dating from February 15th, 1559, is no longer in force." To our knowledge, no canonist claims the opposite.

But since this may be deemed by the reader as insufficient evidence in order to admit this being the case, let us analyze the reasons which support such an affirmation.

35. Instructions given by the 1917 Code.

The question of the present value of the bull is actually quite easy to solve, thanks to the publication of the 1917 Code of Canon Law. The Commission appointed to codify the Church's law evidently based itself on already existing canonical laws, sometimes merely contenting itself to integrate them in their entirety, sometimes modifying them to some extent, and harmonizing the different laws together. The 1917 Code of Canon Law however is now the reference, and has precedence over any previous law, according to the principles laid down in canon 6:

> The Code for the most part retains the discipline now in force, although it brings about opportune changes. Therefore:
>
> 1. Any laws, whether universal or particular, opposed to the prescriptions of this Code are abrogated, unless something else is expressly provided regarding particular laws;
>
> 2. Canons that refer to the old law as an entirety are to be assessed according to the old authorities and similarly according to the received interpretations of the approved authors;
>
> 3. Canons that are only partly congruent with the old law, insofar as they are congruent, should be assessed according to the old law; to the extent they are discrepant, they are to be assessed according to their own wording;
>
> 4. In cases of doubt as to whether a canonical prescription differs from the old law, it is not considered as differing from the old law;

> 5. As applying to penalties, if no mention is made of them in the Code, whether they are spiritual or temporal, medicinal or, as they say, vindicative, automatic or formally imposed, such are considered abrogated;
>
> 6. Among the other disciplinary laws now in force, if they are contained neither explicitly nor implicitly in the Code, they should be said to have lost their force, unless they are repeated in liturgical books, or unless the law is of divine law, whether positive or natural.

36. The bull *Cum ex Apostolatus* is given as part of the Code's *Fontes*.

It has been maintained by some that the bull of Paul IV is still in force on account of a reference given in footnotes in the 1917 Code. But this is a false claim. The bull of Paul IV is merely indicated by Cardinal Gasparri as having been one of the sources of the present law. It is indicated as belonging to the *Fontes*, the sources used in the redaction of the 1917 Code, but it is not part of the Code itself. This requires a little history in order to be properly understood by the reader. Since the 1917 Code was a systematic formulation of the Church's law, it was often necessary to refer to previous legislation in order to properly understand the import of the 1917 Code. Since the Code itself only presents the Church's law in the form of canons, without indicating their origin, Cardinal Gasparri, who worked on this codification and was an eminent canonist, strove to remedy this by publishing a collection of these past laws, which served to produce the 1917 Code: the famous *Fontes*. Cardinal Gasparri published an edition of the Code which included in the footnotes the proper references of the different canons to these previous laws.

These additions are not a part of the Code, nor are they the work of the Holy See, nor of the Commission who edited the Code, but only the private work of Cardinal Gasparri. They are definitely useful, but they only have the private authority of Cardinal Gasparri, who himself explains, in the introduction of his edition, that the new canons very often differ from previous laws, particularly in what concerns penalties.

Thus to maintain that the bull of Paul IV was incorporated as such in the 1917 Code of Canon Law because it was mentioned in the footnotes of Cardinal Gasparri's edition is to manifest an ignorance of how the Code works, and ignorance of the history of the Code.

37. Previous penal laws are revoked by the 1917 Code unless they are explicitly mentioned.

Now let us consider the force of previous penal laws. We have already seen the 1917 Code abrogated all penalties not mentioned in it, by virtue of canon 6, n. 5:

> As applying to penalties, if no mention is made of them in the Code, whether they are spiritual or temporal, medicinal or, as they say, vindicative, automatic or formally imposed, such are considered abrogated.

Thus canonists comment:

> There is no doubt concerning the abrogation of penalties of the general law that are not contained in the Code.[49]

> Penal laws, even though not contrary to the Code, are revoked unless they are mentioned in the code itself.[50]

This is particularly true of the penalties attached to the delict of heresy, according to the famous *Dictionnaire de Théologie Catholique*, which says in the article on heresy and heretics:

> The penalties enforced in laws anterior to the promulgation of the code of canon law only have a retrospective value.[51]

Now, it is clear that Cardinal Hergenröther considered the bull of Paul IV to be a *penal law*, and he assured us that in this he was in agreement with all canonists and theologians. But a penal law is now in force only inasmuch as it is expressly mentioned by the 1917 Code. Thus we should not be looking to the bull of Paul IV, but to the 1917 Code, in order to know what are the penalties attached to the delict of heresy, as we have done previously. The bull of Paul IV and the penalties enforced anterior to the promulgation of the code only have a "retrospective value", to use the words of the famous dictionary.

38. The law has been substantially modified with the 1917 Code.

In addition we find that in law the notion of "renunciation" is really distinct from the notion of "privation". It is important to remember this real distinction, for according to the bull of Paul IV *Cum ex Apostolatus*, the loss of office due to public defection from the faith was classified as a privation (*privatio a jure*) rather than as a "renunciation". On the other hand, according to Canon 188 of the 1917 Code of Canon Law, the loss of office due to public defection from the faith is classified as a "renunciation" which strictly speaking is not a penalty.[52] This distinction between the two notions of "renunciation" and "privation" may seem insignificant but the consequences of this substantial change[53] in classification confirms the lack of binding force of Cum Ex Apostolatus, since canon 6 of the Code establishes that the modification of a law such as we see with

the change from “privation” to “renunciation” entails the abrogation of the previous law and the enforcement of the new.

39. Conclusion of this question.

It should now be evident that the famous bull of Paul IV is not the current law which one should follow on the question of loss of office through heresy. The present law is contained in the canons which we have previously explained. But for the sake of the argument, let us deepen our understanding of the bull, in order to see if there would be a different outcome to the present situation, were the old law, predating the 1917 Code, to be still in force.

SIXTH ARTICLE

THE OBJECTIVE VALUE OF THE BULL OF PAUL IV

40. The bull of Paul IV, just like the 1917 Code, deals with consequences of the *crime* of heresy.

Taking the more speculative approach we have yet to answer the question as to whether or not the bull of Paul IV, if it were still in force today, would perhaps invalidate the Thesis of Bishop Guérard des Lauriers. This problem is easily solved once we have understood the import of the bull through a brief examination of other documents from the same period.

The bull of Paul IV does not refer to the *sin* of heresy but to heresy as a *crime* or *delict*. This is clear from studies on the bull such as the one of Hergenröther mentioned in previous chapters, from the introduction given to the bull by the *Bullarium* itself (also quoted above), and from other laws promulgated at the same period of time.

41. One or two bulls *Cum ex Apostolatus?*

What is ignored or perhaps unknown by many is that there are not merely one but two papal bulls named *Cum ex Apostolatus Officio*. The first one, very famous, is the bull of Paul IV, from February 15th, 1559 and the second was published by St. Pius V, on January 27th, 1567. This later bull, promulgated eight years after the former, begins with the same words, and bears the same name. This is not by chance. St. Pius V confirmed the bull of Paul IV by the *motu proprio* entitled *Inter Multiplices Curas*, from

December 21st, 1566 and then one month later, he treated again the problem of a *vacancy due to the crime of heresy* in the bull *Cum ex Apostolatus* of January 27th, 1567.

In this bull, St. Pius V discusses the question on who would receive the benefices attached to an office which had become vacant *on account of the crime of heresy* ("*propter crimen haeresis*"). The Saint will address this question again later on in the declaration *Decet Romanum Pontificem* of July 31st, 1571.

42. The case is similar to what we have explained above.

Both Paul IV and St. Pius V (and Pope Pius IV who ruled between these two popes) were dealing with the *crime* of heresy. We are therefore faced with the same problem mentioned in our study of canon 188. Whether it be a *penal deprivation* or a *tacit renunciation*, the loss of office due to heresy intervenes when there is a *crime* of heresy. Except in clear cases, as mentioned in previous chapters, of someone *publicly* repudiating the Catholic faith in such a way that his pertinacity cannot be contested, it often will have to be determined juridically by a process of canonical warnings in order to have its juridical consequences. Thus Pope Pius IV, in *Romanus Pontifex*, of April 7th, 1563, makes a reference to monitions and a lapse of time given for the possible amendment of the cleric.

43. The bull of Paul IV states that a heretic cannot be validly elected pope.

Another section of Paul IV's bull deals with the election of someone who would later be proven to be a heretic, declaring his election null. But here again, this would have to be juridically determined to have its juridical force. It does mention however, that the election of a heretic to the papacy would be invalid, if the elect were shown to be a heretic, even "if obedience had been given by all." Let us quote here the section 6 of the bull in its entirety in order to better understand the controversy it has raised in some circles. This part, very strong in its language, is often misunderstood.

> In addition, if ever at any time it shall appear that any bishop, even if he be acting as an archbishop, patriarch or primate; or any cardinal of the aforesaid Roman Church, or, as has already been mentioned, any legate, or even the Roman Pontiff, prior to his promotion or his elevation as cardinal or Roman Pontiff, has deviated from the Catholic Faith or fallen into some heresy:
>
> (1) the promotion or elevation, even if it shall have been uncontested and by the unanimous assent of all the cardinals, shall be null, void and worthless;
>
> (2) it shall not be possible for it to acquire validity (nor for it to be said that it has thus acquired validity) through the acceptance of the office, of consecration, of subsequent

> authority, nor through possession of administration, nor through the putative enthronement of a Roman Pontiff, or veneration, or obedience accorded to such by all, nor through the lapse of any period of time in the foregoing situation;
>
> (3) it shall not be held as partially legitimate in any way;
>
> (4) to any so promoted to be bishops, or archbishops, or patriarchs, or primates or elevated as cardinals, or as Roman Pontiff, no authority shall have been granted, nor shall it be considered to have been so granted either in the spiritual or the temporal domain;
>
> (5) each and all of their words, deeds, actions and enactments, howsoever made, and anything whatsoever to which these may give rise, shall be without force and shall grant no stability whatsoever nor any right to anyone;
>
> (6) those thus promoted or elevated shall be deprived automatically, and without need for any further declaration, of all dignity, position, honor, title, authority, office and power.

44. False interpretation.

This part is often misunderstood to mean that a situation could arise where an apparent pope could be proven to be a false pope and not even validly elected, even after years of peaceful pontificate. However, this is not the meaning of the bull. The papacy could not be made dependent on a future contingency of an uncertain discovery of someone's heresy. Furthermore, theologians generally agree that an occult heretic could be a valid pope.[54]

The idea of discovering the heresy of a pope after many years have passed, and that all his actions would have been hitherto invalid would clearly contradict this common teaching and would also be very dangerous for the perpetuity of the Church. What would happen, then, if one were to discover that a pope from two centuries ago had been a heretic, whose heresy had been unknown up to now? Would the apostolic succession then have been broken? Should the Papacy and the apostolic succession of the Roman See thus depend on a future contingent of a possible discovery of heresy? This would be the logical consequence of our opponents' argumentation.

But the common opinion holds that occult heresy is not an obstacle to the papacy. And this indeed seems to actually be in keeping with the meaning of the bull. The beginning of section 6, as we have quoted is often translated as follows:

> In addition, if ever at any time it shall appear [*apparuerit*] that any bishop... or even the Roman Pontiff, prior to his promotion or his elevation as cardinal or Roman Pontiff, has deviated from the Catholic Faith or fallen into some heresy...

The word "appear", used in English, make it sound as if it would require little more than an allegation to apply; when in fact this has to be *manifest*, either through monitions and declarations such as were mentioned above, or by notorious heresy, that is, when it is evident to all, both as a matter of *fact* and of *pertinacity*.

45. The bull has been explained by an eminent canonist.

These questions pose a difficulty foreseen and explained by a very prominent theologian and canonist,[55] the Dominican Passerini, who wrote an entire treatise on the election of the pope, and explained at length the import of this part of Paul IV's bull.[56] In his view, the "obedience given by all" (*"ei praestitam ab omnibus obedientiam"*) does not refer to the peaceful acceptance by the universal Church (at which point, he explains, one can no longer contest the election), but rather to the ceremony of *obedience* given to the newly elected pope by the Cardinals, just mentioned before in the bull, and to whom the term "*omnibus*" would refer. The ceremony of *obedience* refers technically to the solemn submission given by the cardinals to the newly elected pope. Once the new pope has been peacefully accepted by the entire Church, however, this portion of the bull of Paul IV becomes irrelevant, according to Passerini. But if the pope were to become a manifest heretic this would be the distinct question of a heretical pope, that is, the hypothetical question of what would happen if a pope were to fall into heresy as a private person.

46. Comparison with other similar documents confirm this explanation.

That this is indeed the meaning of this papal bull cannot be denied, since it is the common teaching of theologians that the acceptance of an election by the universal Church would correct any defect of the election, and is a guarantee of a valid election. In other words, the universal peaceful acceptance of an election by the Church is considered by theologians as an infallible sign of a canonical election. They would not say that if the bull were teaching the exact opposite, namely, that even after the universal acceptance of the Church, an election could be reversed and declared null. Hence it clearly cannot be the meaning of the bull. We must thus conclude with Passerini, that the "obedience given by all" refers to Cardinals, and not the universal Church.[57]

This is further confirmed by comparison with another papal constitution, the 1505 bull *Cum tam Divino*, of Pope Julius II, which dealt with the election of a simoniacal pope in the same way in which Paul IV dealt with the election of a heretic. In fact we may clearly notice that the bull of Paul IV follows and imitates the structure of the bull of Julius II, published fifty-four years earlier. To imitate and repeat the formulas of predecessors is a

very common practice in papal documents. This is particularly true in issuing disciplinary legislation. In this earlier document, Pope Julius II also refers to the ceremony of *obedience* of the Cardinals, as not being enough to confirm the election (in n. 2):

> And a simoniacal election of this kind is never convalidated neither by the subsequent lapse of time or inthronization [of the elect], nor even by the adoration or obedience of the cardinals.

Pope Julius II then encourages the cardinals to resist such an election before the elect may presume to rule the universal Church, even to the point of asking help from secular powers if necessary. The expressions employed in this papal bull are the same as those employed in *Cum ex Apostolatus*. Clearly, then, the "obedience given by all" was understood to refer to the ceremony of obedience (or "adoration" as Julius II calls it; or again, "veneration" as Paul IV calls it) given to the pope by the cardinals, and not to the peaceful acceptance of the election given by the universal Church.

This understanding is supported not only by the commentary of Passerini, presented above, and by a proper analysis of the very meaning of the papal documents, but it is also explicitly confirmed by Wilmers S.J., who references a list of theologians and canonists to establish the following general principle:

> It is rightly supposed that these Pontiffs, who have established laws about the election, wanted to invalidate only the first election, accomplished by the Cardinals, and not the other one, which is, as it were, done by the whole Church [i.e., by the universal acceptance and recognition of an election]. That is, these Pontiffs are to be presumed to have established laws according to the principles recognized in the Church. They wanted the penalty to punish the culprit, and not the Church.[58]

47. *Manifest heresy* and jurisdiction according to the Church's law before the 1917 Code.

We have already presented how theologians like Billuart teach that Christ would maintain jurisdiction even to a manifestly heretical pope, for the good of the Church, until he is declared a heretic. This principle also applies to bishops, and has been made explicit by the Church's present law, as we have already seen.

This was already the case before the 1917 Code, as a matter of fact. Billuart explains (*loc. cit.*):

> I say: Heretics, even manifest, keep their jurisdiction and absolve validly, unless they

> have been sentenced by name, or unless they have left the Church.

> This is proven by the bull *Ad Evitenda Scandala,* published by Martin V in the Council of Constance...

> It is confirmed nowadays by the practice of the entire Church... Nobody avoids his pastor, even for the reception of sacraments, for as long as he is left in his benefice, even if, according to the judgment of all, or at least many people, he is a jansenist and rebellious to the definitions of the Church.

> The law and the practice of the Church require a sentence [*denuntiationem*] in order that the heretic be deprived of jurisdiction.

> Without a declaration of the Church, it could hardly be established if someone is manifestly excommunicated, since often some will affirm it while others will deny it, and hence if he would not keep jurisdiction [while being an undeclared excommunicate], anxiety of the consciences and perturbation among the faithful would follow. The same thing applies to the manifestly suspended [on account of heresy, for example], if he is not declared such by the Church.

> Since therefore the heretic who is not sentenced or who has not left the Church is still in the Church, not in the strict sense, but under a certain aspect, and with regard to exterior profession [namely, because he still professes to be Catholic], the Church maintains his jurisdiction for the sake of the faithful.

48. Conclusion: The Church's law before the 1917 Code does not invalidate the Thesis.

It should be clear from the considerations of this chapter that the Thesis is not invalidated, in particular, by the bull *Cum ex Apostolatus* of Pope Paul IV.

We have shown that this bull is no longer the law, we have explained its true meaning, and we have explained how the law anterior to the 1917 Code does not really differ from it in its application.

SEVENTH ARTICLE

A CONFIRMATION FROM HISTORY

49. The practice of the Church confirms the principles presented above.

Examples from the Church's history are innumerable. There have been many prominent ecclesiastics, known to have defended erroneous doctrines, even heresies, but who have been treated with leniency, due to the fact that pertinacity was not yet strictly established, canonically. Many of them are in fact presumed to have died Catholic, and have been granted ecclesiastical burial. Church history shows how the Church is swift in condemning objective errors, but slow and prudent before condemning their author as a heretic.

This is reflected in the patience with which the Church dealt with Loisy, Luther, and many other people, who were excommunicated only when every attempt of amendment had failed.

The fundamental principle is given by Cardinal Billot in unmistakable terms: one is still to be considered as an occult heretic,[59] even if he were to openly say heretical things, for as long as he claims to be a Catholic and professes submission to the magisterium of the Church:

> Only notorious heretics are excluded, but occult heretics are not excluded, among which also should be numbered those who, although they sin externally against the faith, have never, however, receded from the rule of the ecclesiastical magisterium by a public profession.[60]

In other words, they still claim to be Catholic, they profess submission to the magisterium of the Church, although in fact they say many things which are contrary to the teaching of the Church:

> You understand that many would easily fall into this category today: people who are doubting or positively dissenting from truths of the faith, and who are not dissimulating the disposition of their mind in private conversation, although they have never really abdicated the faith of the Church as such, and if they were asked categorically about their religion, they would readily declare themselves to be Catholic.[61]

Let us here present a number of examples taken from the history of the Church to illustrate our argument. It will become evident to the reader that the Church has never practiced and applied Canon Law as some of our opponents would like to apply it. Church

history, indirectly, can become very helpful in theology, to be aware of errors and mistakes:

> That a theologian should be well versed in history, is shown by the fact of those who, through ignorance of history, have fallen into error.[62]

50. St. Athanasius was attacked by Lucifer of Cagliari for an alleged compromise.

Lucifer[63] was bishop of Cagliari, in Sardinia, in the fourth century. Lucifer was a valiant defender of the orthodox Faith against the Arians, who were denying the divinity of Christ. He defended St. Athanasius against his adversaries, and suffered exile for his zeal. He wrote polemical pamphlets against Constantius II, the Arian emperor. But Lucifer also proved to be imprudent on different occasions, and of bitter zeal. He fell into schism as a result of his opposition to the Council of Alexandria, held by St. Athanasius in 362. In this Council, it was decided that the bishops who had fallen to the side of the Arians out of weakness should retain their episcopal sees, while those who had been pertinacious were to be received back into the Church only in the lay state.

Lucifer opposed the leniency of the Council of Alexandria towards repentant bishops, and argued that they should all be deposed and reduced to the lay state. He went into schism over this issue, and thus founded the sect of the "Luciferians", which for a short time had some adherents in Spain, Gaul, and Rome.

It is interesting to notice that the champion of orthodoxy, St. Athanasius, was himself attacked by an imprudent bishop (who had formerly defended and praised St. Athanasius) for his alleged compromise in his acceptance of repentant bishops. In this regard, the Thesis suffers attacks for reasons similar to what motivated Lucifer of Cagliari to denounce and reprove St. Athanasius himself.

51. Nestorius.

Nestorius was archbishop of Constantinople in the fifth century. In 428 he openly and publicly defended the heresy that Mary was not the Mother of God. He was very pertinacious about it, and tried by all means to entice clergy and people to accept his heresy. The Catholic clergy fled him, saying "An emperor we have, but no bishop." For it was clear to them that a bishop pertinaciously teaching heresy to his flock was a wolf, and no shepherd.

Nonetheless, it was not until 431, in the Council of Ephesus, that he was officially declared a heretic and deposed from his see. At that council, up until the moment of his condemnation, he was addressed as "Your Reverence" and given other formalities of honor.

Let us draw a few observations from this event. First, it is evident that a bishop pertinaciously teaching heresy must be shunned as a wolf. Most of the clergy and the people had effectively broken communion with Nestorius. Nonetheless, an official and authoritative recognition of his heresy was still necessary to provide for a lawful succession to his see. Between 428 and 431, therefore, the see of Constantinople was in this intermediary situation, without a bishop to truly care for it, but instead occupied by a wolf, worthy of deposition and condemnation.

52. Erasmus of Rotterdam.

Praised by the world as one of the most illustrious scholars of the Renaissance, Erasmus of Rotterdam (1469-1536) has also been accused by many of defending heresy. St. Alphonsus Liguori explains:

> Albert Pico, Prince of Carpi, a man of great learning, and a strenuous opponent of the errors of Erasmus, assures us that he called the Invocation of the Blessed Virgin and the Saints idolatry; condemned Monasteries, and ridiculed the Religious, calling them actors and cheats, and condemned their vows and rules; was opposed to the celibacy of the clergy, and turned into mockery papal indulgences, relics of saints, feasts and fasts, auricular confession; asserts that by faith alone man is justified, and even throws a doubt on the authority of the Scripture and Councils.[64]

It is not surprising, then, that Erasmus is recognized by many as a precursor of Luther. Yet, Erasmus never actually left the Church, and died a Catholic, according to St. Alphonsus:

> He was, however, esteemed by several Popes, who invited him to Rome, to write against Luther, and it was even reported that Paul III intended him for the Cardinalship. We may conclude with Bernini that he died with the character of an unsound Catholic, but not a heretic, as he submitted his writings to the judgment of the Church.[65]

We can see with this example that only duly established pertinacity makes one publicly leave the Church. Erasmus was certainly as bad as many "Novus Ordo" Catholics today.

53. The Four Gallican Articles.

Let us mention the gallican declaration of the Four Articles, by the French clergy in 1682. This declaration stated the following: (1) the pope has supreme spiritual but no secular power; (2) the pope is subject to ecumenical councils; (3) the pope must accept as inviolable immemorial customs of the French Church, such as the right of secular rulers

to appoint bishops or use revenues of vacant bishoprics; (4) papal infallibility in doctrinal matters presupposes confirmation by the whole Church.

These four articles are contradicting the Catholic faith in a very serious way, needless to say. Yet, the French bishops were never declared to be notorious heretics, and were not deposed from their episcopal sees. The Pope followed a path of patient diplomacy to remedy the situation, fearing that severity would lead the entire Church of France into open schism. This infamous declaration was drafted and defended by none other than Bossuet, one of the most illustrious French ecclesiastics of history.

54. Jansenist bishops in France.

Cardinal Billot addresses a number of cases, while discussing the principle presented above. One of them is the open rejection of the bull *Unigenitus* by Jansenist bishops, who were still recognized as legitimate bishops, in communion with the Holy See.

The eminent Cardinal explains (*op. cit.*, pp. 296-297) that the Jansenists were very crafty in their rejection of the bull issued by Pope Clement XI in 1713, for they would claim that it was not infallible, and not to be followed as a rule of faith. They still professed submission to the magisterium of the Church as the rule of faith, and claimed to be Catholics. It is only after the bull had been accepted in the whole Church as the rule of faith, and after the Pope required submission to the bull as a criterion of catholicity, that Jansenist bishops who would still refuse to submit themselves to the judgment of the Holy See would be deposed.

The analogy with the current situation is evident: many bishops, who signed the erroneous documents of Vatican II can easily claim to be submitted to the Church's magisterium, to not see any rejection of Catholic dogma in Vatican II, and still claim to be Catholic. From that point of view alone, therefore, one could hardly argue that all the bishops who have signed the Vatican II documents would become, by that very fact, notorious heretics, deposed of their episcopal sees. This argument is thus proven wrong by history.

55. Scipione De Ricci and the Synod of Pistoia.

The synod of Pistoia was a diocesan synod held in 1786 by Scipione De Ricci, bishop of Pistoia and Prato. This synod was a bold attempt to secure recognition of Jansenist and Gallican doctrines in Italy. It taught many serious errors and heresies, in doctrine, discipline, and liturgy, many of which bear a striking resemblance with Vatican II. Faced with growing unpopularity, Scipione De Ricci decided to resign from his episcopal see in 1791. The synod of Pistoia was later condemned in a very detailed fashion by Pope Pius

VI's bull *Auctorem Fidei* of 1794. Scipione De Ricci signed a formula of submission to Pope Pius VII in 1805.

Officially, therefore, Scipione De Ricci never left the Church, and never ceased to be considered a Catholic, although he publicly adhered to objectively heretical doctrines. He was never declared deposed for his errors, and between 1786 and 1791 he was in fact still functioning as the Catholic bishop of the diocese of Pistoia.

56. Other historical examples.

More examples could be presented, and we invite the reader to research and ponder the length of time accorded to Luther, to Elizabeth I of England, or even to Loisy, before excommunication. We could also analyze the case of the French bishops under Philip the Fair; the case of the bishops who adhered to conciliarism at the Council of Constance; the case of Febronius, who officially submitted, and died a Catholic; of Cardinal Newman, who also died a Catholic, despite his serious errors.

57. History confirms the principles presented above.

The idea that anyone could declare Catholic bishops to be automatically deposed for having signed and adhered to objectively heterodox statements is not only proven to be wrong by a close analysis of ecclesiastical law. It is also proven to be wrong by repeated historical events. We have only adduced a few of them, and one could easily add many more. Many bishops indeed professed heresy in the Second Council of Ephesus. Many bishops professed heresy in the Council of Basel. Many bishops have erred in signing the conciliarist decree *Haec Sancta Synodus* at the Council of Constance. One should not consider everyone who has ever erred in this fashion as automatically deposed and notoriously heretic.

As a conclusion, although the Thesis does not recognize any authority in the "Vatican II popes and bishops", since it is impossible for Christ to grant His authority to the destruction of the faith and the promulgation of a false Modernist religion, nonetheless the Thesis does not agree with those who claim all these bishops and popes to have been canonically deposed at the mere signature of heterodox documents. While it is true that such public adherence to heresy has the effect of separating someone from the Church *in the order of fact*, it is also true that it has no canonical effect until it is declared and adjudicated by a process of law.

If this causes grief and outrage towards the Thesis, let it be reminded that St. Athanasius himself was viciously attacked by Lucifer, bishop of Cagliari, for a very similar reason, during the great Arian crisis.

EIGHTH ARTICLE

COROLLARY: WHETHER THE NOVUS ORDO IS A NON-CATHOLIC SECT

58. State of the question.

We here take for granted as accepted by the reader the fact that the Vatican II religion is a false religion, and represents a striking and substantial departure from the Catholic religion, in doctrine, discipline, and liturgy. We take for granted as accepted by the reader that the prelates placed in positions of authority, and particularly the "Vatican II popes and bishops" do not have in fact authority from Christ to teach, rule, and sanctify the faithful, since they attempt to impose this false Vatican II religion.

That being said, the question which we are now considering is more canonical in its nature: should we then consider the "Novus Ordo Church" as a separate Church from the Catholic Church?

Again, if we are here talking about the false religion which is spread and imposed by what is commonly referred to as the "Novus Ordo Church", then yes, it certainly is different from the Catholic religion.

Nonetheless, the "Novus Ordo Church" is a vague expression which expresses a reality more subtle than the mere existence of, say, a new Protestant sect. What is commonly referred to as the "Novus Ordo" or the "Novus Ordo Church" is the tragic reality of a shared attempt by people canonically placed in positions of authority in the Catholic Church, to impose a false religion on Catholics. They are wolves in shepherd's clothing, so to speak.

59. The foresight of St. Pius X.

St. Pius X warned us, with a striking foresight, that this was the particularly mischievous characteristic of Modernism: it destroys and viciously attacks the very fundamentals of the Catholic religion, not from the outside, but from inside, in the very bosom of the Church.

Pope St. Pius X gave the following warning, in his famous encyclical against modernism, *Pascendi Dominici Gregis*, of 1907:

> There has never been a time when this watchfulness of the supreme pastor was not necessary to the Catholic body... Still it must be confessed that **the number of the enemies of the cross of Christ has in these last days increased exceedingly, who are striving, by arts, entirely new and full of subtlety, to destroy the vital energy of the Church, and, if they can, to utterly overthrow Christ's kingdom itself...**

> That We make no delay in this matter is rendered necessary especially by the fact that **the partisans of error are to be sought not only among the Church's open enemies; they lie hid, a thing to be deeply deplored and feared, in her very bosom and heart,** and are the more mischievous, the less conspicuously they appear. We allude, Venerable Brethren, to many who belong to the Catholic laity, nay, and this is far more lamentable, to the ranks of the priesthood itself, who, feigning a love for the Church, lacking the firm protection of philosophy and theology, nay more, thoroughly imbued with the poisonous doctrines taught by the enemies of the Church, and **lost to all sense of modesty, vaunt themselves as reformers of the Church;** and, forming more boldly into line of attack, assail all that is most sacred in the work of Christ, not sparing even the person of the Divine Redeemer, whom, with sacrilegious daring, they reduce to a simple, mere man.

> Though they express astonishment themselves, no one can justly be surprised that We number such men among the enemies of the Church, if, leaving out of consideration the internal disposition of soul, of which God alone is the judge, he is acquainted with their tenets, their manner of speech, their conduct. **Nor indeed will he err in accounting them the most pernicious of all the adversaries of the Church. For as We have said, they put their designs for her ruin into operation not from without but from within; hence, the danger is present almost in the very veins and heart of the Church, whose injury is the more certain, the more intimate is their knowledge of her.** (emphasis added).

60. The "Novus Ordo Church" is not a separate Church, but rather describes the phenomenon of Modernist prelates attempting to impose on the Catholic Church their poisonous religion.

As has been made clear by historical examples, the Catholic clergy can err, and sometimes did err very seriously. But when the French bishops signed the Four Gallican articles, they were not considered as having founded a sect. When the bishop of Pistoia issued outrageous reforms, which in many ways prefigured the changes of Vatican II, he was not deemed to have founded a new Church. Instead, they were considered exactly as what they were: bishops of the Catholic Church, attempting to impose errors on their flock.

The “Novus Ordo Catholics”, that is, those who have followed the reforms of Vatican II, and frequent the New Mass and the new sacraments in their parishes, may well be, to a greater or lesser degree, aware of the seriousness of the changes in doctrine, discipline, and liturgy. Nonetheless, they do enjoy the presumption of law in their favor. Before the law, they are presumed Catholics in good faith, until the opposite is duly established.

61. This observation is not an endorsement of the Vatican II religion.

Certainly, the Modernist bishops ought to be held accountable, tried, and in most cases, they would likely deserve to be deposed. By saying that the “Novus Ordo bishops” enjoy some canonical presumption in their favor, we do not therefore in any way condone their betrayal. We certainly desire unfaithful clergy to be punished, and heresy to be utterly condemned. But theology ought to be precise and objective, and must not be influenced by emotions. The situation of the “Vatican II popes and bishops” and of “Novus Ordo Catholics” ought to be described and explained as it is, according to Canon Law and theology, whether one likes it or not. To categorize “Novus Ordo Catholics” as members of a non-Catholic sect, besides being factually false, leads to impossible conclusions.

62. Inherent inconsistencies and contradictions of the opposite opinion.

Those defending that the “Novus Ordo Church” is a non-Catholic sect, in the full canonical strength of the word, are faced with flagrant intrinsic contradictions.

For according to this opinion, we would have to logically conclude:

(1) That, either with the election of John XXIII or with the promulgation of Vatican II, the whole Catholic Church disappeared suddenly, entirely swallowed up in a false Church.

(2) That at this point all Catholics were canonically part of this non-Catholic sect, in communion with and submitted to non-Catholics. This would mean that there were therefore no true Catholics left on earth.

(3) That everyone leaving the “Novus Ordo” is leaving a non-Catholic sect, and must make an abjuration of error and a public profession of Catholic faith to be absolved from excommunication and be received again in the true Catholic Church by a priest who himself is not a member of the sect, or if he was, has himself abjured and was received into the Catholic Church.

(4) That there would have been no clergy left (since all were part of this non-Catholic sect) to receive the “converts” in the true Catholic Church.

(5) That the Catholic hierarchy would have entirely disappeared from the face of the earth, not only formally, but even materially.

(6) That, consequently, the mark of apostolicity of the Catholic Church would have been lost.

(7) That those who defend this idea were themselves members of this non-Catholic sect, and have never been duly received into the Catholic Church. They would themselves be clergy to be shunned by "true Catholics". Who would be these pure and true Catholics, though, no one knows.

These conclusions are utterly unacceptable, they are absurd, and some of them are openly incompatible with the Catholic Faith. Led by a praiseworthy but misled zeal for the Catholic Church, defenders of this idea are logically committed to conclusions which would blatantly contradict the very Church's indefectibility.

63. Conclusion.

We must consider "Novus Ordo Catholics" and "Novus Ordo prelates" for what they are: they usually profess very serious errors; they frequent a rite of Mass which is objectively alien to the Catholic faith; they often lead immoral lives. But they were never confronted with an authoritative ultimatum asking for their amendment. If they were asked, they would readily declare themselves to be Catholics. The presumption of the law is in their favor. They are not declared excommunicates or sentenced heretics. They are not members of a non-Catholic sect, such as would be Methodists, Quakers, and Jehovah Witnesses. Their situation is more akin to that of former Gallicans and Jansenists. When they return to the practice of the traditional faith, they do not therefore need to make any public abjuration of error and profession of Catholic faith. Certainly, however, the traditional priest is bound, on other considerations, to ensure that they are properly instructed and educated in the Catholic religion before being able to administer them with the sacraments.

Lastly, no traditional priest or group is known to require an abjuration of error and a lifting of excommunication, which fact proves, despite words to the contrary, that no traditional priest actually considers the "Novus Ordo" as a sect.

NINTH ARTICLE

PRACTICAL CONCLUSION

64. Conclusion of this study.

We have tried to deepen the import of the Church's Canon Law in order to better understand how it applies to the present situation. In the first article, we have studied the notion of *delict of heresy* and the canonical penalties attached to it by the 1917 Code of Canon Law. It became evident, in the second question, that a *simple delict* is not sufficient to take away the ability to validly elect and be elected in the Church from an unsentenced heretic. We have striven to understand in particular the notion of tacit resignation, addressed in canon 188. It should now be clear to the reader that the Thesis is not invalidated by any canonical consideration, but rather that the Thesis is actually confirmed by the principles involved, particularly the principle that jurisdiction is supplied, even to manifest heretics, "for the good of the Church."[66]

In the fourth article, we have looked closely at the bull of Paul IV, *Cum ex Apostolatus Officio*, and have explained its nature. It appeared very clearly to be a *penal law*, and not a dogmatic definition, as some would have it. In the section of *Cum ex Apostolatus Officio* which concerns the loss of office due to heresy, it established a *penal privation* of office, where the present law establishes a *tacit resignation*, and we have shown in question five how this modification of law made the said bull only of historical interest, since it cannot any longer be binding, and in fact is not recognized by recent canonists as being still in force.

In a more speculative approach, in the sixth article of this chapter, we have explained how an application of the Bull would face the same difficulties of the argument taken from the 1917 Code of Canon Law: that of establishing juridically the pertinacity of a delict of heresy.

After all these considerations, it should be clear to the reader that the vacancy of the Roman See and of the episcopal sees cannot be canonically established nor have its juridical consequences for as long as the proper juridical procedures are not followed.

A brief analysis of history confirmed this observation.

This fact does not grant authority, by default, however, to Bergoglio and his false hierarchy, but it just underlines the particularity of our situation: although clearly deprived of authority, these men have not yet been juridically deposed, and their lack of authority still needs to be juridically established to have all its juridical effects.

This is the precise reason for the confusion existing among the faithful nowadays. While the "Vatican II popes and bishops" do not enjoy the authority of Christ due to their intention to impose on the Church what is objectively a non-Catholic religion, they nevertheless enjoy the presumption of the law in their favor, for which reason they have deceived and continue to deceive many.

It is our conviction that the Thesis alone has the ability to explain the complex reality that is the current crisis in the Church today.

Chapter XII Top Chapter XIV

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[1] Hence, those who err in good faith are not heretics, by definition, nor do they commit a canonical delict.

[2] Dogmatic Constitution *Dei Filius*, ch. 3, n. 8.

[3] In the Civil Law there often exists a gradation of offenses against the law. In the past, ecclesiastical law would also differentiate *crimes* from *delicts*. However, any offense against ecclesiastical law is now called a *delict*, and the term *crime* no longer conveys any difference. We shall therefore use the terms *delict* and *crime* as referring to the same thing: an external offense against ecclesiastical law.

[4] Eric F. MacKenzie, *The Delict of Heresy,* The Catholic University of America, Canon Law Studies n. 77, Washington D.C. 1932, p.33.

[5] Suarez, *Opera Omnia,* T. XII, tract. *de Fide*, Disp. X, S. VI.

[6] It is not impossible for a pope to be imprudent or even wrong in particular decisions, but this does not compromise the indefectibility of the Church in her universal doctrine and discipline. To argue from this poor decision of Leo XIII that he was a heretic, however, reveals a deep ignorance of principles, and the ease with which certain people are ready to make the greatest accusations.

[7] "One is inscribed in the rolls of a sect if he has in any acceptable fashion placed his name upon its roster, or if he has volunteered his name that it might be used officially in any way symbolic of membership... Public adherence to a non-Catholic sect means simply public membership demonstrated by frequenting the regular services of any non-Catholic sect, by publicly claiming to be a member, by publicly defending the teachings of the sect, or by flaunting an emblem or badge indicative of membership. Any of these acts suffices to establish at least a presumption of the consummation of the delict of canon 2314, §1, 3°. The crime, however, is not constituted by the mere fact of nominal membership or public affiliation. Formal heresy, apostasy or schism is the fundamental prerequisite." (V. Tatarczuk, *Infamy of Law*, The Catholic University of America, Canon Law Studies, No. 357, Washington DC, 1954, p. 41).

[8] Infamy is a canonical recognition of "having a bad reputation", which could be caused for various reasons (usually because of having done something wrong), and has various consequences.

[9] As we shall see later, even though here mentioned in the book of penalties, this loss of office is not properly speaking a penalty, but rather a renunciation.

[10] The *degradation* of a cleric includes his deposition, his being perpetually deprived of the ecclesiastical habit, and reduction to the lay state. (cf. can. 2305).

[11] A *ferendae sententiae* penalty is one which is not incurred *ipso facto* (automatically, by the very fact) but must be enforced by the superior.

[12] The process of *deposition* renders one unable to accept any office, dignity, benefice, pension, or any function in the Church (cf. can. 2303).

[13] MacKenzie, *op. cit.*, p.55. For a greater understanding of the distinction between *deposition* and *degradation* of clerics, see: *Canonical Norms governing the Deposition and Degradation of Clerics*, by Rev. Stephen William Findlay OSB, The Catholic University of America, Canon Law Studies No. 130, Washington DC, 1941.

[14] "Sex gradus criminis quoad apostasiam, haeresim et schisma continentur in Codice : 1.° Simplex crimen. 2.° Post monitionem. 3.° Post iteratam monitionem clerici. 4.° Adscriptio sectae ; i.e., nominis praestatio societati religiosae ab Ecclesia Catholica separatae, sive christianorum sive infidelium. 5.° Publica sectae adhaesio, etsi sine adscriptione ; ostendendo factis vel se ad sectam pertinere vel illam sibi placere ; v. gr., conventibus sectae interveniendo, eius doctrinam vel statuta defendendo, sectam promovendo. 6.° Permanentia clerici in secta post monitionem.

Poenae (§ 1). — 1.° Pro omnibus excommunicatio l. s. 2.° Pro omnibus, post inutilem monitionem, privatio beneficii, dignitatis, pensionis, officii, muneris ; infamia. Hae omnes sunt f. s. 3.° Pro clericis praeterea, iterata monitione, depositio f. s. 4.° Si sectae acatholicae nomen dederint vel publice adhaeserint, pro omnibus infamia l. s. 5.° Pro clericis insuper privatio officii et beneficii l. s. 6.° Post monitionem inutilem, degradatio f. s." (Regatillo, *Institutiones Iuris Canonici,* Vol. I, Santander, 1956, p. 552)

[15] In other words, the *dolus* is the evil intent to break the law, willingly and knowingly. If the person is not aware of breaking the law, or if the person is entirely unwilling but is physically forced to do so (such as if someone were to force meat down your throat on a Friday), then there is no *dolus* for the person did not at all intend to break the law. Notice that these conditions are the same as that of sin. Indeed, knowledge and consent are requirements of any human act, as has been explained in the chapter on the lack of proper intention.

[16] This common axiom of law means: "One is presumed good until proven evil," or, more commonly: "One is presumed innocent until proven guilty."

[17] Innocent R. Swoboda, *Ignorance in relation to imputability of delicts,* The Catholic University of America, Canon Law Studies n. 143, Washington D.C., 1941, pp. 179-180.

[18] MacKenzie, *op. cit.,* p. 91.

[19] Such is the opinion of McDevitt: "In treating of public defection from the faith, Coronata notes that the tacit renunciation which results in consequence of this defection is not strictly the effect of penal sanction. (*Institutiones*, IV, n. 1864.) This statement is quite true. Certainly the tacit renunciation cannot be considered a penalty for a religious profession, which according to canon 188, n.1, effects a tacit renunciation. There is certainly nothing in such an act that would warrant a penalty. Even with regard to the acts in canon 188 which constitute crimes the writer believes that the tacit renunciation is not inflicted as a penalty. This fact seems quite clear to the writer, especially in view of the manner in which the Code refers to the tacit renunciation in the canons which treat of penalties... It is plainly evident that a distinction is being made between the threatened or enacted penalty on the one hand, and the tacit renunciation called a penalty. It is always set off in a separate ablative absolute clause when it is enumerated with penalties. For this reason the writer is of the opinion that a tacit renunciation is not to be classified as a penalty. The authors do not expressly designate it as a penalty, but they do list it along with the penalties when they consider the juridical effects consequent upon specific crimes... In this canon the law is not imposing a penalty, but is rather accepting the specified acts as tantamount to an express renunciation of office." (G. Mc Devitt, *The*

Renunciation of an Ecclesiastical Office, The Catholic University of America, Canon Law Studies, No. 218, Washington DC 1945, pp. 115-117).

[20] Let it be noted that the bull *Cum ex Apostolatus* is indicated by Gasparri as one of the sources of canon 167, just as it is indicated as one of the sources of canon 188 n. 4. This is interesting because canon 167 §1 n. 4 is more explicit than canon 188 n. 4, and therefore helps to understand its import. Canon 188 and the bull *Cum ex Apostolatus* are studied and explained further below.

[21] This mention here is important to understand the problem of an invalid acceptance, explained in its proper place: Canon Law does recognize that election is a *human act*, and therefore cannot be made validly by someone who cannot posit a human act. The same would obviously be true of the acceptance of an election. It is indeed a human act, and as such requires knowledge and consent.

[22] MacKenzie, *op. cit.*, p. 98.

[23] Augustine, *A commentary on the new Code of Canon Law*, 3rd edition, Herder, St. Louis, 1919, Vol. II, p. 130.

[24] T. Mock, *Disqualification of Electors in Ecclesiastical Elections*, The Catholic University of America, Canon Law Studies, No. 365, Washington DC, 1958, pp. 108-109.

[25] Mock, *ibid.*

[26] "C'est une rétroactivité apparente. La sentence n'agit pas sur le passé, mais fait savoir que Caius est excommunié depuis le 15 mars pour s'être alors battu en duel. La déclaration oblige à mettre en règle, depuis la date du délit, ce que la crainte de l'infamie avait permis de différer. Titius, privé par une peine *lat. sent.* des fruits de son bénéfice, a continué à se les approprier, mais, après la sentence déclaratoire, il doit restituer les fruits perçus à partir du moment où a été commis le délit. Toutefois, s'il avait continué à exercer l'office dont la peine *lat. sent.* l'avait privé, les actes posés à cette occasion auraient été valides en vertu de l'erreur commune (can. 209)." (R. Naz, *Dictionnaire de Droit Canonique*, Paris, 1957, article *Peine*, Vol. VI, col. 1303). The last point (about canon 209) will be explained further below.

[27] Let it be noted, as a confirmation, that Gasparri indicates as one of the sources of this canon the bull *Cum ex Apostolatus* of Pope Saint Pius V (which should not be confused with the bull of Paul IV), from January 27th, 1567, which clearly explains that the law of Paul IV, which saint Pius V is here confirming, deals with vacancy of sees

propter crimen haeresis ("because of a crime of heresy"). McDevitt (*op. cit.*) also very clearly explains that this canon deals with consequences of the *crime* of heresy.

[28] McDevitt himself makes this parallel between canon 188 and canon 1065 (*op. cit.*, p. 138).

[29] Rev. John Joseph Heneghan, *The Marriages of Unworthy Catholics*, The Catholic University of America, Canon Law Studies n. 188, Washington D.C., 1944, pp. 86-87.

[30] *Loc. cit.*

[31] *Loc. cit.*

[32] *Op. cit.*, p. 94.

[33] We will treat further below the question of whether or not the Novus Ordo is a non-Catholic sect.

[34] Francis Sigismund Miaskiewicz, *Supplied Jurisdiction according to Canon 209*, The Catholic University of America, Canon Law Studies n. 122, Washington D.C., 1940, p. 224.

[35] *Loc. cit.*, p. 226. Here Miaskievicz placed a footnote indicating: "Canon 188."

[36] *Loc. cit.*, pp. 226-227.

[37] *Loc. cit.*, p. 228.

[38] Charles-René Billuart (1685-1757) was a Belgian Dominican theologian. He was an eminent thomist, and the well-known author of one of the most famous and esteemed commentaries on St. Thomas' *Summa Theologiae*.

[39] Billuart, *Summa Sancti Thomae, Tractatus de fide*, Diss. V, Art. III.

[40] "Applicandum hoc est ad tres illos Pontifices dubios, supponendo, omnes vere fuisse dubios, hoc tamen discrimine applicandum, quod non Ecclesia, sed Deus ipse defectum supplet et jurisdictionem largitur. Etenim odedientiae singulae Pontificem suum existimabant et dicebant legitimum, duos reliquos schismaticos; et Pontifices singuli titulum aliquem coloratum possidebant, et ita quidem, ut multis difficillimum esset et etiamnum sit discernere, quis eorum revera esset legitimus. Hinc ut Deus ipse Pontifici dubio ob errorem invincibilem eidem adhaerentium jurisdictionem, "quantum necesse

erat", scilicet ad fideles, qui ipsis adhaererent, regendos. Ad hunc autem finem necesse non erat, ut, si anathema dicerent parti adversanti eamque ab Ecclesia excluderent, haec exclusio effectum sortiretur. Unde ex eo, quod alii eorum actus essent validi, non sequitur, validum etiam fuisse actum, quo alteram Ecclesiae partem excommunicabant." (Wilmers, *De Christi Ecclesia*, l. III, c. III, a. II, p. 366).

[41] The *Bullarium* is a collection of papal bulls and other pontifical documents.

[42] Cardinal Hergenröther is not the only author to have explained this point, but his authority, and the clarity and precision with which he presents it will amply suffice us.

[43] Cardinal Joseph Hergenröther, *Catholic Church and Christian State,* Burns and Oats, 1876, pp. 41-45.

[44] Let us emphasize: "As to the enjoining portion of the bull in question, it only contains **penal sanctions** against heresy, which unquestionably belongs to disciplinary laws alone." The Cardinal here is very precise, which will prove very useful later on.

[45] This argument has sadly been spread around again in recent years, through ignorance.

[46] Let us again emphasize: "The point, then, is **about the practical execution of previous penal laws**, which by their nature are disciplinary, and **proceed not from divine revelation, but from the ecclesiastical and civil penal authority**."

[47] "Innovatio quarumcumque censurarum et poenarum contra haereticos et schismaticos quomodolibet promulgatarum; et aliarum poenarum impositio in cuiuscumque gradus et dignitatis praelatos et principes, haereticae vel schismaticae pravitatis reos." (*Bullarum Diplomatum et Privilegio Sanctorum Romanorum Pontificum*, Taurinensis Editio, T. VI, Augustae Taurinorum, 1860, p. 551).

[48] P. Mattheus Conte A Coronata, *Institutiones Iuris Canonici*, Vol. I, Taurini, Marietti, 1928, p. 363.

[49] Abbo and Hannan, *The Sacred Canons*, Vol. I, St Louis MO, 1952, p. 11.

[50] Bouscaren and Ellis, *Canon Law*, Milwaukee 1953, p. 21.

[51] A. Michel, *Dictionnaire de Théologie Catholique*, article *Hérésie, Hérétique*, Letouzey, Paris, 1924, col. 2245: "Les peines fulminées dans les droits antérieurs à la promulgation du code canonique n'ont qu'un intérêt rétrospectif."

[52] McDevitt says explicitly that the loss of office on account of public defection from the faith, as well as three other acts listed in canon 188, "now entail a tacit renunciation instead of the privation of office sanctioned in the former law." (*op. cit.*, p.117).

[53] McDevitt does indeed refer to this change as being substantial: "there have been some substantial changes made in the law." (*op. cit.*, p. 117). He also explains that, although similar, a *renunciation* and a *privation* are indeed two different things: "It may here be noted also that a tacit renunciation and a privation of office are very similar, but that the law nevertheless consistently places them in different categories." (*ib.*).

[54] The opinion that the papacy would be lost by occult heresy has been defended in the past by Juan de Torquemada, Alfonso de Castro and a few others, but has been abandoned and refuted by the consensus of major theologians, such as Canus, Azor, Suarez, St. Robert Bellarmine, John of St. Thomas. See, for example, St. Robert Bellarmine, *De Romano Pontifice*, Bk. II, ch. XXX.

[55] The Rev. Peter Mary Passerini O.P. is a prominent thomist of the 17th century, whose works continued to be studied in the following centuries. He also has been the vicar general of the Dominican order. Fr Garrigou-Lagrange O.P. praises him greatly, and follows him, for example, on the question of what formally constitutes christian perfection. In his work *Christian Perfection and Contemplation*, Fr Garrigou-Lagrange refers to him as "the great canonist Passerini, O.P., who was a profound theologian and most faithful to St. Thomas".

[56] Passerini, *Tractatus De Electione Summi Pontificis,* Rome, 1670, pp. 163-164.

[57] The question of the universal acceptance and its import in the present crisis will be examined and discussed at great length in a dedicated chapter.

[58] "Merito supponitur, Pontifices illos, qui de electione leges tulerunt, non voluisse irritam facere nisi primam illam per Cardinales electionem, non vero alteram, quae quasi fit per totam Ecclesiam. Verbo, supponendi sunt leges tulisse secundum principia illa, quae vigent in Ecclesia. Voluerunt poena afficere reum, non Ecclesiam." (Wilmers S.J., *De Christi Ecclesia,* L. II, c. III, Sch., n. 147, Rastibone, 1897, pp. 257-258).

[59] Following the terminology of the 1917 Code of Canon Law, we could say that such a person would be a public heretic, *materially*, but not *formally*. This means that in this case the fact of professing heresy is public and obvious to all, while the pertinacity of the person is not yet evident to all and unable to be contested by anyone. In other words, the pertinacity of the delict is not yet public. Hence the delict is *materially* public, but *formally* occult.

[60] "Solos scilicet excludi notorios, non occultos, in quorum numero ii etiam ponendi videntur, qui etsi externe contra fidem peccantes, nusquam tamen a regula ecclesiastici magisterii publica professione recesserunt." (Billot S.J., *De Ecclesia Christi,* T. I, Q. VII, Ed. 3a, Prati, 1909, pp. 293-294)

[61] "Quos inter, multos nostris diebus versari facile intelliges: dubitantes scilicet de rebus fidei vel positive dissentientes, suamque animi dispositionem in privato vitae commercio non dissimulantes, quamvis Ecclesiae fidem nusquam ex professo abdicaverint, et cum categorice de sua religione interrogantur, sponte sua sese catholicos declarent." (Billot, *loc. cit.*).

[62] Melchior Canus, *Loc. Theol.*, B. XI., c. 2.

[63] "Lucifer" was a Roman name, meaning "light-bearer". It did not have the evil connotation that it would have today.

[64] St. Alphonsus of Liguori, *The History of Heresies*, Ch. XI, Dublin, 1847.

[65] *Ibid.*

[66] Let us here repeat once more that in virtue of this same principle, however, Christ could never supply jurisdiction for acts and teachings which substantially contradict the Catholic religion, such as the teachings of Vatican II, the promulgation of the New Mass, the change of the sacramental rites, the publication of a new and ecumenical code of canon law. There cannot be any suppliance of authority for these things, since they not only contradict "the good of the Church," but would actually entirely eliminate it.

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