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Université de Montréal

The problem of double jurisdiction: paths to renewal

by

Thomas Dowd

Faculté de Théologie

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The problem of double jurisdiction: paths to renewal

présenté par:

Thomas Dowd

a été évalué par un jury composé des personnes suivantes:

Jean-Claude Breton

Guy-Robert St-Arnaud

Jean-Marc Gauthier

Mémoire accepté le :

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SUMMARY

The question of the relationship between the jurisdiction of the bishop of Rome and that of the local bishops is not yet entirely resolved. With the progress of the ecumenical movement in the 20th century, it has returned to the front burner. Unfortunately, current attempts to deal with this problem of overlapping or “double” jurisdiction often revert to sociological or political models. A fresh approach, genuinely theological, is required.

The key stumbling block, at least within ecumenical circles, is the dogmatization of the doctrine of papal primacy, which seems to present an insurmountable impasse. A historical approach, however, yields fresh insights. First, a closer examination of the dogma, particularly the authoritative interpretations of the officials presiding the First Vatican Council, shows that the dogma is intended to be balanced with a teaching on the role of the local bishop. Next, an examination of the history following the First Vatican Council shows that much of the impasse may, in fact, result more from the fact of how the dogma was interpreted, rather than from the dogma itself. The Second Vatican Council paved the way for re-exploring the teaching in question.

One key insight of Vatican II was the affirmation of the sacramentality of the Church and of the episcopate. These are theological realities, but with practical consequences. Taken together, along with the principle of the “perfection of the sign” outlined in the Council’s teaching on liturgy, they permit us to view jurisdiction and authority as theological realities as well, rather than merely as canonical ones. Seeing authority as a sacramental manifestation of the Headship

of Christ allows us to see unity in the (otherwise seemingly opposed) doublet of universal and local authority. This approach is, in fact, something new: apart from a few hints and suggestions, it is not found in this form in the current literature.

The very question of jurisdiction, in fact, needs to be placed in a new context, that of the mission of the Church (and that of the local bishop). There is often a confusion between the notions of “jurisdiction” and “mission”, particularly with regards to the role of the local bishop. The Pope is not the only bishop with a universal mission; rather, all bishops have it. This necessarily colours our vision of the relationship between universal and local authority, and so will be examined in depth through a historical review of the actual exercise of the universal dimension of the local bishop’s mission. It should be noted that this section is quite original: no similar review was found in any of the research conducted.

Taking these two new “context dimensions” into account, a general review is finally attempted of certain proposals already made to resolve the question of double jurisdiction. This concludes with an examination, based on this thesis, of what elements must necessarily be part of a successful “solution” to the “problem” of double jurisdiction. In particular, light is shed on the point that any such proposal must contain both a theoretical theological component, and a pastoral practical component: in other words, both an orthodoxy and an orthopraxy.

The general conclusion finishes with a discussion of the canonical issues of implementation which would necessarily follow a successful resolution of the problem of double jurisdiction.

Key words: ecclesiology; primacy; jurisdiction; bishop; church

RÉSUMÉ

Par son encyclique *Ut Unum Sint*, le Pape Jean-Paul II nous invite à réfléchir de nouveau sur son ministère, c'est-à-dire celui d'évêque de Rome. Cette question comprend plusieurs facettes, dont la question épineuse de la double juridiction du pape et des évêques locaux sur les mêmes territoires. Jean-Marie-Roger Tillard, dans son oeuvre incontournable *L'Évêque de Rome*, pose la question de la manière suivante : « Comment concilier ces deux pouvoirs, à première vue égaux, visant tous deux l'unité, s'exerçant tous deux sur les mêmes Églises et les mêmes fidèles, sans mettre entre parenthèses un de ces deux pouvoirs ? » Cette interrogation est le sujet de recherche de ce mémoire.

Bien sûr, une telle question ne présente pas de solution immédiatement apparente. Ce mémoire procède de la façon suivante : après une brève introduction, il commence en présentant, dans le premier chapitre, le contexte historico-dogmatique d'une dimension particulièrement catholique de cette doctrine, c'est-à-dire le dogme de la primauté du Pape. Dans un deuxième chapitre, il regarde la question sous l'angle de la sacramentalité de l'Église et de l'épiscopat. On procède de la sorte pour voir si cet aspect unique de l'Église comme société d'êtres humains peut informer nos modèles de gouvernance de l'Église. Le troisième chapitre examine la question de la mission de l'Église, pour voir si la considération de cette mission (et celle des évêques, soit de Rome, ou des autres Églises locales) peut nous donner des conseils pratiques pour mieux développer les relations entre les deux niveaux d'autorité. Avec tout cela en arrière-plan, le quatrième chapitre réexamine les solutions historiques déjà proposées au problème

de la double juridiction, soit au dix-neuvième siècle ou plus récemment, afin de voir si ces solutions prenaient en considération la sacramentalité de l'Église et de sa mission. Le chapitre se termine avec la présentation de quelques éléments essentiels à se remémorer si nous voulons développer la doctrine et la praxis catholiques en suivant les pistes ouvertes par la recherche déjà entreprise. Le mémoire se conclut avec une considération du droit canon et la mise-en-oeuvre pratique qui serait nécessaire à un véritable renouveau de la pratique de la gouvernance dans l'Église.

Chapitre premier : Le problème de la primauté papale

Dans le premier chapitre, nous examinons la question du dogme de la primauté pontificale en regardant, en premier lieu, la question des dogmes en général. L'Église catholique a défini dogmatiquement l'existence de cette primauté qui semble être une impasse infranchissable. La Congrégation de la Doctrine de la Foi, par contre, a affirmé qu'un dogme doit être compris dans le contexte historique dans lequel il a été rédigé. En regardant ce contexte, nous découvrons toute de suite certaines choses. Premièrement, le projet de la définition dogmatique a été proposé dans un contexte d'ultramontanisme assez répandu dans l'Église catholique. Deuxièmement, quand le dogme a été proposé au premier Concile du Vatican, la voix minoritaire a beaucoup influencé le développement du texte. Cela fut établi afin d'assurer que les droits des évêques ne seraient pas mis de côté. D'une certaine manière, nous pouvons dire qu'au Concile, les minoritaires ont « gagné ». Par contre, nous découvrons, en troisième lieu, qu'une fois le Concile Vatican I terminé, c'était la majorité ultramontaine qui disséminait et interprétait

le dogme en lui le donnant un sens centralisateur et ultramontain. Le dogme, dans son texte, ne la soutenait pas. Cette interprétation a dominé pendant des décennies. Finalement, le Concile Vatican II a regardé de nouveau le dogme en le plaçant dans le contexte d'une doctrine plus large de l'Église en général, et de l'épiscopat et sa collégialité en particulier. Loin d'être une simple répétition de Vatican I, ce nouveau contexte ouvre les portes pour une nouvelle recherche sur la question, en regardant (dans ce mémoire) la primauté sous les angles de la sacramentalité et de la mission de l'Église et des évêques.

Chapitre deuxième : La juridiction et la sacramentalité de l'Église

La dimension sacramentelle de l'Église est une des redécouvertes les plus importantes du Concile Vatican II. parce qu'elle est l'une des particularités de l'Église qui la distingue des autres sociétés humaines. La sacramentalité n'est pas juste un élément de certains rites de l'Église, mais elle fait partie de sa spécificité. Pour comprendre l'analogie de ce mot, ce chapitre commence en examinant un article du Fr. Benoît-Dominique De La Soujeole, intitulé « Questions actuelles sur la sacramentalité », suivi par une critique de son approche. Ensuite, l'application de ce concept à l'ecclésiologie est entreprise en étudiant les positions théologiques de quatre auteurs majeurs : E. Schillebeeckx, Karl Rahner, Yves Congar, et Jean-Marie-Roger Tillard. Chacun de ces auteurs est étudié en utilisant leur ouvrage le plus significatif pour notre sujet, suivi par une critique.

La troisième partie de ce chapitre regarde la sacramentalité sous l'angle de son impact sur la théologie de l'autorité et la juridiction dans l'Église. Ce chapitre

commence en montrant que, contrairement aux accusations de certains théologiens protestants, la théologie catholique enseigne que c'est le Christ (et non le Pape) qui est la vraie tête de son Corps (qui est l'Église). Elle montre également que le Pape et les évêques sont ses « vicaires », selon l'expression de Pie XII. Or, ils sont ses vicaires grâce à un sacrement, le sacrement de l'ordre. Vatican II a déclaré, contre les opinions de certains, que l'épiscopat fait vraiment partie du sacrement de l'ordre, et que l'un des effets de ce sacrement est de permettre aux ministres ordonnés de représenter le Christ *in persona Christi capitis*. Un effet pratique de cet enseignement est l'application du titre « vicaire du Christ » non seulement au Pape mais à chacun des évêques : ces derniers ne détiennent pas leur autorité du Pape, mais du Christ lui-même.

Dans la conclusion de ce chapitre, nous regardons un autre élément de la doctrine de la sacramentalité : l'importance de la plénitude du signe, et non simplement de la simple validité dans la célébration des sacrements. S'il existe un vrai parallèle entre les sacrements-rites et le sacrement-Église, cette plénitude (et son importance) s'applique dans la « célébration » de la gouvernance dans l'Église. Lorsqu'il y a une « concélébration » de cette autorité, l'unité dans la source d'autorité devient alors une unité qui se manifeste aussi dans son exercice.

Chapitre troisième : La juridiction et la mission de l'Église

L'autorité dans l'Église n'existe pas pour elle-même, mais pour favoriser la mission de l'Église. Nous voyons dans la littérature, par contre, un certain

glissement qui se répète souvent : une confusion entre juridiction et mission. Pour éviter la confusion, nous regardons de plus près dans ce chapitre la mission de l'Église, et de l'épiscopat en particulier. Nous voyons alors comment la considération de la mission de l'Église informe notre doctrine sur les relations d'autorité.

Les deux premières parties nous donnent un survol de la doctrine et de la théologie actuelle sur la mission de l'Église. Cette section est nécessaire parce qu'un regard initial nous montre que la littérature actuelle sur la mission de l'Église parle davantage *des missions* que de *la mission* de l'Église. La compréhension de cette dernière, cependant, favorisera notre compréhension des relations de juridiction entre le pape et les évêques.

La troisième partie est une recherche originale sur la dimension universelle de la mission de l'évêque local. Vatican II a appuyé la position que la mission de l'évêque local transcendait les frontières de son Église locale. Mais comment cette sollicitude pour l'église universelle s'est-elle manifestée dans l'histoire ? Très peu d'écrits existent actuellement sur ce sujet. Par contre, l'interaction entre les deux niveaux de la mission universelle de l'Église (celui du pape et celui de l'évêque) a des répercussions pour notre compréhension des relations d'autorité entre ces deux niveaux. Dix formes de cette sollicitude y sont présentées.

Chapitre quatrième : modèles de coopération

Le problème de la double juridiction a été soulevé à Vatican I et repris dans la théologie pendant et après Vatican II. Plusieurs solutions et pistes de solution

ont été proposées. Dans ce chapitre, nous regardons de nouveau ces solutions pour les évaluer à la lumière de l'arrière-plan historique et des investigations théologiques sur la sacramentalité et la mission de l'Église. Deux de ces solutions ont été proposées pendant Vatican I. Elles sont cependant insatisfaisantes parce qu'elles confondaient la « plénitude d'autorité » et la « plénitude du signe » déjà mentionnées. Les quatre autres solutions ont été développées après Vatican II. Elles prennent mieux en considération les développements théologiques de ce Concile. Par contre, elles présentent seulement des pistes de solutions et non pas des solutions complètes. La conclusion de ce chapitre nous donne un résumé des éléments nécessaires (selon la recherche) pour une solution intégrale, surtout en regardant l'« orthodoxie » et l'« orthopraxie » du problème des deux juridictions.

Conclusion générale

Le problème de la double juridiction est, dans ses fondements, un problème théologique mais avec une très forte dimension canonique. Dans la conclusion nous regardons d'une manière provisoire les implications canoniques de la recherche.

Mots clés: ecclésiologie; primauté; juridiction; évêque; église.

DEDICATION

This thesis is dedicated to the memory of Fr. Jean-Marie-Roger Tillard, o.p. Whether one always agreed with his conclusions or not, we cannot deny he had a knack for asking good questions. His desire to re-examine the theology of the office of the bishop of Rome in a manner faithful to the great Tradition of the Church opened a door to a discussion which continues today in much the same way that he himself framed it. Although he did not live to see his dream of ecumenical unity fulfilled, his contribution to that dream was of great import. May he rest in peace, in the company of the blessed, living in heaven the unity which, during his time with us, he so desired for his fellow Christians here on Earth.

FORWARD

This thesis takes its origin from a conference I participated in while still a seminarian studying at the Grand Seminary of Montreal. I was just beginning my theological studies, and the Canadian Centre for Ecumenism offered to support my enthusiasm for ecumenical issues by offering to sponsor my participation in the annual conference of the North American Academy of Ecumenists. This was in September of 1997. The topic addressed was “Papal Primacy—Stumbling Block or Stepping Stone to Christian Unity?” It was meant to be part of the response to a discussion on the papacy which Pope John Paul II had invited in his encyclical *Ut Unum Sint*. The keynote address was given by Fr. Jean-Marie-Roger Tillard, o.p. While taking the train to Toronto, I read a book written by Fr. Tillard, entitled *The Bishop of Rome* (see bibliography). One problem he raised in this work intrigued me particularly: the question of double jurisdiction, which is the problem of reconciling the two concurrent powers (papal and episcopal) governing the faithful of a given area. As one can imagine, I was not the only person interested in this issue: it came up quite often in the various presentations and conversations at the conference.

As the Toronto conference continued, I began to see that the solutions proposed to this problem typically involved proposals for “restructuring” the church, attempting to find some sort of constitutional limit to the power of the papacy. I remarked that little or no treatment was being made of two points: the special sacramental nature of the church, and the universal role of the individual

bishop. It was as though the church were being conceived of as a sort of federation, with each bishop a provincial leader, and the pope as a federal leader, such that the natural solution to the problem was to find a constitutional balance. But this vision is flawed, because (according to the Catholic understanding, at least), the Church is more than a human institution: its sacramental dimension colours its whole life in a way that a mere humanistic analysis cannot grasp. The problem of double jurisdiction is not merely a political or canonical problem, it is a theological one, and therefore demands a genuine (and fresh) theological treatment.

This is the origin of this thesis. I have attempted to examine what practical consequences may arise from the fact of the sacramentality of the Church (and the episcopacy), as well as to cull from history concrete examples demonstrating the universal component of the bishop's role, so that the overall vision of the episcopacy might be better balanced. I believe this will contribute significantly to the discussion, currently underway in ecumenical circles, of the relationship between the local and universal authorities in the one Church of Christ. If theology truly is *fides quaerens intellectum*, then a right reflection will prepare the way for an accurate theology.

GENERAL INTRODUCTION:
STATEMENT OF THE PROBLEM

Fr. Jean-Marie-Roger Tillard was a noted theologian and ecumenist with a particular interest in ecclesiology. Drawing from his experience in ecumenical dialogues, he laid out a challenge for us in his book *The Bishop of Rome*. Our ecumenical brethren, he reported, ask us to help them to see clearly regarding a particularly sticky theological point: that of papal primacy, particularly as dogmatically defined by the Roman Catholic church. Despite recent developments in the Catholic understanding of the bishop's role in the expression of authority in the Church, and more particularly, in the Catholic understanding of the papal dimension of this authority, the following question must be asked regarding the relationship of authority between the papal and local episcopal levels: "How may we reconcile these two powers, at first equal, both making for unity, both operating on the same churches and the same faithful people? Does not one of them have to be subordinate if there is to be any stable unity?"¹

In a sense, Tillard offers us the service of paraphrasing what is in effect a serious concern of many non-Catholic Christians, many of whom come from traditions with a historical suspicion of papal authority. The question comes through loud and clear as an explication of what would be unacceptable for them

¹ J.-M.-R. TILLARD, *The Bishop of Rome*, p. 128.

in a future reunited church: the danger of an effective suppression of local episcopal authority. Catholics have asked themselves the same question, which makes it even more embarrassing that no simple and solid answer is immediately forthcoming to the conundrum, apart from protests that “papal authority is not meant to be used that way, so don’t worry.” In fact, a satisfactory answer has yet to be found or, at the very least, one that does not dance around the problem. The purpose of this thesis, then, is to render a service: this one simple but rich problem, posed in honesty by a partner in dialogue, will be first examined to determine its content. Then, elements of the belief and practice of the Christian faith will be in their turn examined, to see what light they might shed on this very challenging problem: the problem of overlapping, or, if you will, of “double” jurisdiction.

CHAPTER ONE

THE PROBLEM OF PAPAL PRIMACY

Is the above a provocative title? I do not mean it to be any more provocative than Pope Paul VI was himself, when he was speaking to the Secretariat for Promoting Christian Unity: “The pope, as we well know, is undoubtedly the gravest obstacle in the path of ecumenism. What shall we say? Should we call once more upon titles which justify our mission? Should we once more attempt to present it in its exact terms such as it is really intended to be – an indispensable source of truth, charity, and unity?”² What did the Pope mean by this statement? It was certainly not any sort of abdication of the universal ministry which he believed resided in his office. Was it not, rather, the simple recognition of a sad fact: that for many, the person and office of the Pope is a bone of contention?

This thesis is not about papal primacy, but rather, about the problem of double jurisdiction, that is to say, about the relationship between the authority of the bishop of Rome and that of the other local bishops. But we must begin with the question of papal primacy, particularly that of jurisdiction, because that primacy has, in the Roman Catholic church, been declared to be a dogma. The existence

² PAUL VI, “Allocution to the Secretariat for Promoting Christian Unity”, found in MICHAEL J. BUCKLEY, S.J., *Papal primacy and the Episcopate: Towards a relational understanding*, p. 15. For the entire text (in French) see *Documentation Catholique* 64 (1967), p. 870.

and the nature of this stumbling block demand to be addressed, as John Erickson, an Orthodox theologian, has stated:

Some might argue that, if we could remain in communion during the first millennium despite such differences, such differences should not divide us now...But would either Catholics or Orthodox consider this a satisfactory basis for reunion? Would either side be willing at this point to regard issues relating to papal primacy, for example, simply as theologoumena? One of the anathemas of Vatican I reads:

If, then, any one shall say that it is not by the institution of Christ the Lord, or by divine right, that Blessed Peter should have a perpetual line of succession in the primacy over the Universal Church; or that the Roman Pontiff is not the successor of Blessed Peter in this primacy – let him be anathema.

Does this apply to my Catholic neighbor, presumably because of his Western mentality, but not to me, because of my Eastern mentality? It seems likely to me that many Catholics would be confused by reunion on such terms and that most Orthodox would reject it.³

The fact of the dogma does not mean that all reflection has stopped, however. What remains as a task is to understand the truth behind the dogma. To undertake this, we will examine the origin of the dogma, that is to say, the immediate context in which it arose; the text and meaning of the dogma itself, as it was meant to be understood according to the magisterial authority of the day; the understanding which, notwithstanding, prevailed in some quarters; and the restatement of the dogma which has occurred with Vatican II. Before undertaking

³ JOHN ERICKSON, "First Among Equals: Papal Primacy in an Orthodox Perspective," *Ecumenical Trends*, p. 8/24.

all of this, however, we will first begin with a review of the exact nature of a dogma within the Roman Catholic understanding – after all, it is that church which declared the dogma in the first place.

1.1 What is a dogma?

In his work *Creative Fidelity*, Fr. Francis Sullivan makes the following observations regarding the use of the term “dogma”:

In modern Catholic usage, a dogma is a truth that must be believed with “divine and Catholic faith,” as this is described in Vatican I...The faith with which such truths are to be believed is called “divine,” because it is a response to God who has revealed them; it is called “Catholic,” because revealed truths which have been definitively proposed for our belief by the supreme teaching authority are by that fact part of the normative faith of the Catholic Church. A dogma, therefore, is now understood as a truth which has been revealed by God and has now also been definitively taught as such by the church’s magisterium.⁴

Fr. Sullivan goes on to make the following observation on the place of dogma in the life of the Church:

While the baptismal creed expressed the essential elements of the “rule of faith” for the early church, it very soon became evident that differences would arise between Christians as to the meaning of various articles of the creed. The unity of the church required that authoritative answers be given to fundamental questions about the meaning of the

⁴ FRANCIS A. SULLIVAN, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium*, p. 28.

creed, so that Christians could not only say the same words in professing their faith, but really have the same faith, which depended on meaning the same thing by the words they said. The ongoing function of dogma in the life of the church, then, has been to provide the authoritative answers to the questions that have kept coming up about the meaning of what Christians profess in the creed, and thus to make possible a common profession not only of the same words but really of the same faith.⁵

Hence, questions about dogma ultimately must involve questions about language.

What is most essential is that there be a correspondence between the language used and the meaning behind the language used. Modern examples are easy enough to find. For example, it is not readily apparent that what Catholics profess when they declare (in the Creed) that they believe in the “holy catholic church” is the same thing that Protestants profess when they make the same declaration. The language is common, but the meanings seem quite divergent. The inverse can also be true. A recent common Christological declaration between the Roman Catholic church and the Assyrian Churches of the East, as an example, has focussed on the faith behind the language used, with the conclusion that the faith is, in fact, the same.⁶ In effect, for hundreds of years we have apparently been saying the same thing, but with different words. The meaning has been common, but the language divergent.

This connection between meaning and language implies that dogmas cannot

⁵ *Ibid.*, p. 31.

⁶ C.f. PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, “Common Christological Declaration between the Catholic Church and the Assyrian Church of the East, November 11, 1994”, *Information Service*, no. 88 (1995/I), pp. 2-3.

be used as mere slogans, but that there is, in fact, a science to their interpretation.

The magisterium of the Church has itself acknowledged this fact, in the declaration

Mysterium Ecclesiae of the Congregation for the Doctrine of the Faith:

It must first be observed that the meaning of the pronouncements of faith depends partly upon the expressive power of the language used at a certain point in time and in particular circumstances. Moreover, it sometimes happens that some dogmatic truth is first expressed incompletely (but not falsely), and at a later date, when considered in a broader context of faith or human knowledge, it receives a fuller and more perfect expression. In addition, when the Church makes new pronouncements she intends to confirm or clarify what is in some way contained in Sacred Scripture or in previous expressions of Tradition; but at the same time she usually has the intention of solving certain questions or removing certain errors...In view of the above, it must be stated that the dogmatic formulas of the Church's Magisterium were from the very beginning suitable for communicating revealed truth, and that as they are they remain forever suitable for communicating this truth to those who interpret them correctly. It does not however follow that every one of these formulas has always been or will always be so to the same extent...For this reason also it often happens that ancient dogmatic formulas and others closely connected with them remain living and fruitful in the habitual usage of the Church, but with suitable expository and explanatory additions that maintain and clarify their original meaning. In addition, it has sometimes happened that in this habitual usage of the Church certain of these formulas gave way to new expressions which, proposed and approved by the Sacred Magisterium, presented more clearly or more completely the same meaning. As for the meaning of dogmatic formulas, this remains ever true and constant in the Church, even when it is

expressed with greater clarity or more developed.⁷

In effect, the Congregation is endorsing the principle of the development of doctrine, as enunciated by St. Vincent of Lerins⁸ and, in more modern times, by Cardinal Newman in his famous *Essay on the Development of Christian Doctrine*. In providing this clarification, the Congregation gives us guidance in our task of examining the dogma of papal primacy of jurisdiction: we must examine the context of the dogma, to find out what truly was being said. The Congregation also offers us hope, because it allows us to focus on the meaning behind the words, rather than on the words themselves. Irreformability may be a characteristic of dogma, but only of its meaning, not of its formulae as such.

This being said, our task is still difficult. That dogmas are meant to build and express unity in the faith implies at the same time that they arise in situations when such unity is being challenged. “Dogmatic decisions taken by the councils were key moments...when a decisive answer had to be given to questions that threatened the unity of the church in professing the true faith.”⁹ And, of course, such unity was not always maintained, with schism occurring, for example, at both the council of Ephesus and the council of Chalcedon. In such situations, the text of a dogma can become a true bone of contention, with each side digging in its heels and using the dogma as a slogan. This observation is important to our

⁷ CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Mysterium Ecclesiae*, no. 5.

⁸ Cf. ST. VINCENT OF LERINS, *First Instruction*, passim.

⁹ FRANCIS A. SULLIVAN, *op. cit.*, p. 33.

discussion, because precisely this polarisation occurred (and still occurs) around the dogma of papal primacy, whether in opposition to the dogma, or in its defence.

This path now being made clear, let us now turn our attention from dogma in general to the dogma of papal primacy in particular.

1.2 Ecclesiology and ecclesial problems of the 19th century

In *The Bishop of Rome*, Fr. Tillard seeks to place the dogma of papal primacy in its proper historical context, through a chapter entitled “A definition of the papacy marked by a particular historical context”.¹⁰ In this chapter, Fr. Tillard is really trying to show how the dogma was and still is conditioned, in its interpretation, by an ultramontane spirit. He writes: “The climate of ultramontane opinion which accompanied and to some extent brought about the definition of pontifical primacy in 1870 has marked the Catholic understanding of the papacy as deeply as if the two were to be identified.”¹¹ This opinion is important, in that it justifies Tillard’s “daring” to re-open discussion on the primacy of the bishop of Rome. As a vehicle for understanding the context in which the dogma was developed, though, it is wanting. This context is important, however, as has already been seen in the previous section; so we shall turn to a supplementary source. In her doctoral thesis, Marie-Hélène Lavianne chose to examine (among

¹⁰ Cf. J.-M.-R. TILLARD, *op. cit.*, pp. 18-25.

¹¹ *Ibid.*, p. 18.

others, surely), the following questions: “Une Église particulière est-elle un diocèse, une Église locale, un ensemble d’Églises locales, ou une Église-Rite? Nous tentons de montrer ici l’intérêt de distinguer l’Église locale de l’Église particulière. Quels sont les enjeux théologiques de cette distinction?”¹² Ms. Lavianne places these questions in the context of the utilisation of “particular church” terminology at Vatican II, but in order to do so, she must investigate the historical development of ecclesiology up until that point. In doing so, she provides an excellent survey of the ecclesiological issues of the 19th century, from which we will draw a summary of relevant information.

Father Richard McBrien writes that, in the time preceding the First Vatican Council,

Great defenders of papal authority...diffused the theory that...the pope acts in the place of Christ, with all the power that corresponds with this function. This abiding inclination of the official theologians and canonists to assert papal prerogatives was accentuated by the rise of nationalism (e.g. Gallicanism), the intellectual challenges of the Enlightenment, and the new liberalism of the nineteenth century. Vatican I (1869-1870) was the culmination of this development.¹³

The importance of these struggles against nationalism and liberalism, and their impact on the ecclesiological outlook of the day, should not be underestimated.

Regarding Pius IX, “his purpose of ‘restoring’ Catholic life by grouping round

¹² MARIE-HÉLÈNE LAVIANNE, “Églises particulières et églises locales au Concile Vatican II”, *Mélanges de science religieuse*, p. 85.

¹³ RICHARD P. MCBRIEN, *Catholicism*, p. 756.

himself 'all the living forces of Catholicism to react against the mounting wave of anti-Christian liberalism' found a spontaneous echo."¹⁴ This "restoration" took place in various ways in the various countries of Europe, depending on their local circumstances.

Marie-Hélène Lavianne describes the situation in Germany as follows:

Sous l'influence du romantisme ambiant et de l'importance accordée à l'étude de la patristique, les théologiens présentent l'Église comme une communauté de vie avec le Christ dans l'Esprit...

Face au courant romantique, on assiste...à la montée de l'ultramontanisme et à la progression de la thèse de l'infaillibilité du pape. Des évêques et des théologiens en viennent à penser que la mondialisation naissante rend les particularismes ecclésiastiques invivables. Pour lutter contre les forces antireligieuses regroupées par-delà les frontières, il faut donner à l'ensemble du peuple des consignes précises que seule Rome peut formuler et imposer.¹⁵

En Allemagne...la vision d'une Église institutionnelle et statique est largement diffusée. Relativement nuancé chez les théologiens, le triomphe de l'ultramontanisme prend des allures extrêmes et mêmes agressives chez les militants.¹⁶

Within the French church itself, this struggle played itself out as one between two competing theological positions: Gallicanism on the one hand, and ultramontanism on the other. The following incident illustrates the situation well:

Poussé par une quinzaine d'évêques...un théologien

¹⁴ J.-M.-R. TILLARD, *op. cit.*, p. 34.

¹⁵ MARIE-HÉLÈNE LAVIANNE, *op. cit.*, p. 87.

¹⁶ *Ibid.*, p. 88.

parisien anonyme rédigea un long Mémoire. Son but était de défendre les prérogatives de l'épiscopat et les usages de l'Église de France au sujet du droit coutumier, des conciles provinciaux, de la réforme liturgique, des interventions des congrégations romaines...Ce Mémoire fut imprimé anonymement et distribué par l'archevêque de Paris à l'automne 1852. Il fit grande impression par sa volonté de faire front à la poussée de l'ultramontanisme. Mais la réaction ne se fit pas attendre. Mgr Pie obtint sa mise à l'Index. Mgr Gousset convoqua à Amiens un concile qui s'empressa de le condamner également. Parallèlement des mesures étaient prises pour réduire au silence les journalistes qui soutenaient trop bruyamment la cause ultramontaine. Finalement, Pie IX blâma le Mémoire dans une encyclique *Inter multiplices* en mars 1853.¹⁷

Although she mentions it less, the English-speaking Catholics, of course, had long suffered for their continued attachment to Rome, and so were predisposed, in a sense, to an ultramontane mind set. The Great Famine of Ireland, 1845-1850, for example, had had religious overtones as well, in that the British had enough food to feed the starving Irish (who were their subjects), but chose not to unless the latter renounced their "popery". The Irish chose instead to starve or else to flee. As often happens, suffering for an ideal tends to increase one's faith in it, which in this case wound up creating a mentality in which some English-speaking Churches were sometimes "more Catholic than the Pope".

A key nation for disseminating the ultramontane position was, naturally, Italy. Against the backdrop of an increasing nationalism which would lead eventually to the unification of the Italian peninsula, a reactive centralism took root.

¹⁷ *Ibid.*, p. 88.

Les tendances ultramontaines et centralisatrices de l'Église et du Saint-Siège sont en nette progression. À l'université grégorienne, réouverte en 1818, G. Perrone enseigne que l'Église est l'autorité instituée pour sauvegarder dans toute sa pureté la doctrine révélée. Il reconnaît bien sûr que l'épiscopat universel du pape ne supprime en rien la juridiction propre des évêques, mais il accentue à ce point la centralisation romaine qu'il réduit le rôle de l'épiscopat à la portion congrue.¹⁸

All of these factors, then, combined to set the state for the development of the dogmas of papal primacy and papal infallibility – dogmas which, given some of their origins and argumentation, “appear moderate in comparison.”¹⁹

1.3 The dogma of papal primacy as developed and defined at Vatican I

The teaching of Vatican I regarding papal primacy and infallibility is contained in the dogmatic constitution *Pastor Aeternus*, which was promulgated on July 18, 1870. This constitution is divided into 4 chapters, the first three of which deal with the question of papal primacy, and the fourth with papal infallibility. Regarding papal primacy, the constitution follows the following logical scheme: first, it affirms that St. Peter was given primacy over the whole Church by Christ; next, it affirms that this primacy did not end with St. Peter, but is in fact transmitted to his successors, the bishops of Rome; last, it explains the power and

¹⁸ *Ibid.*, p. 87.

¹⁹ RICHARD P. MCBRIEN, *Catholicism*, p. 756.

manner of the primacy of the Roman pontiff,²⁰ which section most interests us within this study. While the subsequent theological reflection on this section has generally retained the teaching of the associated canon²¹, the teaching of this section cannot be limited to that canon. For example, chapter 3 affirms that “This power of the Supreme Pontiff is so far from interfering with that power of ordinary and immediate episcopal jurisdiction by which bishops...individually feed and rule the individual flocks assigned to them, that the same (power) is asserted, confirmed, and vindicated by the supreme and universal shepherd.”²² This important teaching is nowhere found in the accompanying canon.

Why this shortcoming? To understand this, we must briefly examine the origin of *Pastor Aeternus*. What would eventually become *Pastor Aeternus* began as a schema called *De Ecclesia*, which was proposed on January 21, 1870. This first schema comprised 15 chapters, of which only one, the eleventh, was devoted to the question of the primacy of the Roman pontiff. While mention of the Pope was limited, we should not imagine that this meant that the bishops received enormous attention. In fact, according to Torrell, the situation was quite the opposite: “le schéma ne parle pas vraiment de la structure de l’Église, de sa hiérarchie, en un mot, il ne dit rien des évêques.”²³ The criticism of the text was

²⁰ Cf. VATICAN I, *Pastor Aeternus*, passim.

²¹ *Ibid.*, chapter III (Denz 1831 (3064))

²² *Ibid.*, chapter III (Denz 1828 (3061))

²³ J.-P. TORRELL, *La Théologie de l’épiscopat au premier concile du Vatican*, p. 29.

immediate, and several proposals were put forward to include specific mention of the bishops in the text.²⁴

Regarding the pope, the text which would eventually become the third chapter of *Pastor Aeternus* was contained in Chapter XI of the schema *De Ecclesia*, and it read as follows:

Renouvelant donc et suivant en toutes choses, tant les décrets de nos prédécesseurs les Pontifes Romains que les définitions claires et explicites des Conciles généraux antérieurs, Nous enseignons et déclarons que tous les fidèles du Christ doivent croire que ce Siège apostolique et le Pontife Romain possèdent la primauté sur le globe entier, et que le Pontife Romain est le successeur du bienheureux Pierre prince des apôtres, et le véritable vicaire du Christ, qu'il est la tête de toute l'Église, le père, le docteur, le juge suprême de tous les chrétiens ; qu'à lui en la personne du bienheureux Pierre, a été conféré par Notre Seigneur Jésus-Christ le plein pouvoir de paître, de régir et de gouverner l'Église universelle et que ce pouvoir qui est le pouvoir propre de juridiction, est un pouvoir ordinaire et immédiat, à l'égard duquel les pasteurs et les fidèles des Églises particulières soit individuellement, soit tous ensemble, sont tenus au devoir de la subordination hiérarchique et de la véritable obéissance ; afin que, gardant l'unité de la communion avec le Pontife Romain, comme de la profession d'une même foi, l'Église du Christ soit un seul troupeau sous un seul suprême pasteur. Tel est l'enseignement de la vérité catholique dont personne ne peut s'écarter sans atteinte à la foi et s'attachant à des esprits d'erreur, nient que le pouvoir de primauté a été placé par le Christ Notre Seigneur dans le bienheureux Pierre, de telle sorte que celui-ci doive avoir à perpétuité des successeurs en ce pouvoir de primauté à lui confié ; ou qui affirment que la juridiction des Pontifes Romains

²⁴ Cf. *Ibid.*, p. 40.

n'est pas juridiction ordinaire et immédiate sur les Églises des pasteurs particuliers tant réunies ensemble que prises individuellement ; ou bien encore qui prétendent qu'il est licite d'en appeler des jugements des Pontifes Romains à un futur Concile général comme à une autorité supérieure au Pontife Romain.²⁵

According to Torrell, this text is meant to render more precise three specific points. Firstly, against the teaching of Febronius, the text affirms that the power of the Pope is truly and properly a power of jurisdiction, not mere inspection and guidance. Next, the text affirms that this power of jurisdiction is ordinary and extends to all particular churches, “contrairement à ce qu'affirmait Eybel qui ne le voyait que comme un pouvoir extraordinaire de suppléance en cas de négligences de la part des pasteurs locaux.”²⁶ The third point the text seeks to address is the countering of the theology of Tamburini, who sought to make a distinction between episcopal and papal power. Tamburini's argument was that, if such a distinction were not made, then only the Pope would be a true bishop. A consequence of his argument, however, was that exercises of papal power would necessarily have to be mediated by the wielder of episcopal power, a point emphasized by the Jesuit Carolo Passaglia. Against these arguments, the text affirms that papal power is episcopal in nature, and is immediate.²⁷

Against the ordinary and immediate terminology, however, a protest was

²⁵ Schema *De Ecclesia*, translated by J.-P. TORRELL, *op. cit.*, pp. 73-74.

²⁶ J.-P. TORRELL, *op. cit.*, p. 75.

²⁷ Cf. *Ibid.*, pp. 75-76.

mounted. According to Torrell,

Un bon nombre demandèrent la suppression pure et simple des mots *ordinaria et immediata*, car si en un certain sens le pouvoir du pape peut être dit ordinaire puisqu'il n'est pas délégué, on ne peut l'entendre en ce sens que le pape pourrait de façon ordinaire exercer le même pouvoir que l'évêque en chaque diocèse. Il n'est pas un évêque conscient de sa dignité qui puisse admettre une juridiction du pape concurrente à la sienne dans son diocèse. C'est bien en effet là que blesse le bât. Ce sont les droits des évêques que l'on pense directement atteints et l'on craint que le pape n'absorbe en lui de façon effective tout le pouvoir de juridiction de l'Église, de sorte que les évêques ne seraient plus que ses vicaires.²⁸

During the time of redrafting of the text, then, which took place between January 21 and May 9, these concerns needed to be addressed. The schema *De Ecclesia*, it should be noted, was largely abandoned, in favour of a shorter document, consisting of four chapters, focussing on the role of the Pope. The first three of these four chapters were drawn from Chapter XI of the original schema, with the fourth taken from the "added" chapter on infallibility. A subsequent second *De Ecclesia* constitution would then take up the question of the bishops. Even with the promise of this second constitution, however, the suggestion of Bishop Spalding of Baltimore was taken up, that a section be added that would present the teaching of St. Gregory the Great: "my honour is the solid vigour of my brethren."²⁹ This was incorporated into the text as an attempt to demonstrate that the purpose

²⁸ *Ibid.*, p. 77.

²⁹ ST. GREGORY THE GREAT, *Letter to Eulogius, Bishop of Alexandria*, I. 8, c. 30.

of papal power was to strengthen, not weaken, the authority of the local bishops.

As discussion took place on the new text, the question of the use of the terms *ordinaria et immediata* received its official reply. In a report given July 5, Mgr Zinelli gave the following official explanations:

Le pouvoir hiérarchique est divisé en ordinaire et délégué. On appelle pouvoir ordinaire celui qui revient à quelqu'un en raison de sa fonction ; pouvoir délégué, celui qui n'appartient pas à quelqu'un en raison de sa charge mais qu'il exerce au nom d'un autre en qui il est ordinaire.³⁰

Qu'entend-on maintenant par pouvoir immédiat ? Comment le distinguer d'un pouvoir médiat ? – on appelle immédiat...le pouvoir qui peut être exercé sans l'intervention d'un intermédiaire nécessaire, c'est-à-dire d'un intermédiaire qu'on est obligé d'utiliser.³¹

These comments did not, however, really assuage the various concerns, which were not really about what the terms *ordinaria et immediata* meant, but what they were believed to represent. Mgr Strossmayer expressed a fear that a practical consequence would be the erosion (and eventual eradication) of episcopal authority, when he stated, “deux juridictions qui s'exercent dans le même lieu et sous le même rapport se font obstacle mutuellement, et, selon le cours naturel des choses, dans la succession des temps, l'une entravera l'autre ou même la fera disparaître complètement, au grand détriment du bien commun.”³²

³⁰ J.-P. TORRELL, *op. cit.*, p. 116.

³¹ *Ibid.*, p. 116.

³² *Ibid.*, p. 131.

The real concern became, therefore, the need for a clear doctrine regarding the relationship between these two authorities. As Torrell puts it,

Affirmer que le pape a un pouvoir ordinaire et immédiat de juridiction dans toute l'Église et dans chaque diocèse, alors que ces diocèses ont déjà des évêques revêtus de ce même pouvoir ordinaire et immédiat, ne va pas sans appeler comme complément nécessaire une doctrine des rapports entre le pape et les évêques.³³

It was precisely this complementary doctrine which was missing, however. Mgr Zinelli, rather than respond to Strossmayer's concern, simply dismissed it:

Sans doute, le Souverain Pontife a le droit d'accomplir n'importe quel acte proprement épiscopal en un diocèse quelconque, mais s'il se multipliait, pour ainsi dire, et détruisait chaque jour sans aucun égard à l'évêque du lieu ce que celui-ci a sagement déterminé, il utiliserait son pouvoir non pour l'édification mais pour la destruction. Alors oui, il y aurait confusion dans l'administration spirituelle. Mais qui, même en songe, pourrait imaginer une aussi absurde hypothèse ? Nous pouvons faire confiance à la modération du Saint-Siège pour qu'il ne fasse rien qui puisse léser le pouvoir épiscopal.³⁴

The key difficulty with this dismissal, of course, is that there are historical instances where the Pope apparently did not exercise this "moderation". The Great Western Schism, for example, was begun in part as a reaction to a Pope Urban VI, who regularly screamed at the Cardinals in fits of rage, and even went so far as to use his authority to prescribe what kinds of meals they would eat. "When reminded by

³³ *Ibid.*, p. 131.

³⁴ *Ibid.*, p. 135.

the cardinal of Milan that for liceity a threefold admonition ought to precede imposition of censures, Urban stormed: "I can do everything and so I will and decree it."³⁵ One would suspect that it is the fear of precisely this sort of nonsense that continues to cause divisions among churches, and unease among some Catholics.

Despite the lack of a theology emergent from the Vatican Council regarding this problem of double jurisdiction, we do receive some clues as to the elements of a solution. In particular, Zinelli himself confirms that the exercise of papal authority is limited "par le droit naturel et divin. Il suit de là que sont vaines et futiles...ces clameurs...selon lesquelles, si on attribuait au pape un pouvoir suprême et entier, il pourrait détruire l'épiscopat qui est de droit divin dans l'Église."³⁶ This prescription against uses which might destroy the Church is, in turn, complemented by a particular duty regarding the use of the power: the "edification", or building up, of the Church. Zinelli actually used the phrase *non ad aedificationem sed ad destructionem* to describe illegitimate uses of papal power, a phrase which Tillard states "is of great importance...Its roots are very ancient: 'As John of Paris and Nicholas of Cusa wrote on several occasions, the papal power should be, in St. Paul's phrase, *ad aedificationem non ad destructionem Ecclesiae*."³⁷

With these responses, the Council then turned to the question of papal

³⁵ NEWMAN EBERHARDT, *Church History*, no. 134.

³⁶ J.-P. TORRELL, *op. cit.*, p. 150.

³⁷ J.-M.-R. TILLARD, *op. cit.*, p. 223.

infallibility, which is beyond the scope of this thesis. The Dogmatic Constitution, with some additional changes but containing essentially the doctrine we have seen here, was passed on July 18, 1870. The Franco-Prussian war erupted the very next day, forcing a delay in the work of the Council, and the invasion of the Papal States by the Italians later in the year made it impossible for the Council to continue its work; it was suspended on October 20, 1870.

1.4 The understanding and application of the dogma

In general, with the exception of the lack of a theology to resolve the perceived problems associated with double jurisdiction, the concerns of the minority concerning the supremacy of papal jurisdiction were taken into account in the drafting of the final text. On the other hand, the suspension of the Council prevented the second Dogmatic Constitution on the Church, in which the place of the bishops would have been further treated, from ever being examined. Given that there even was a minority determined to express its concerns about how the proposed dogma of universal papal primacy would be received, we should ask ourselves: who was right? Were the reassurances of the official relators adequate? Or was there a resulting imbalance? Did a popular misunderstanding develop?

The question quickly arose in Germany, in 1872, when the German bishops were forced to reply to a statement of Bismarck regarding the decisions of the Vatican Council on papal primacy. First, they outline the points Bismarck had made:

This telegram claims that the decision of the Vatican Council have the following consequences:

1. The pope may assume episcopal rights in every diocese and substitute his own episcopal power.

2. Episcopal jurisdiction is absorbed by papal jurisdiction.

3. The pope no longer exercises certain reserved, limited rights as in the past, but he is the repository of full and entire episcopal power.

4. The pope in general replaces each bishop individually.

5. The pope at his own discretion entirely may at any time take over the bishop's place in dealings with the government.

6. The bishops are no more than instruments of the pope, his agents with no responsibility of their own.

7. Bishops in relation to governments have become in fact the agents of a foreign sovereign, of a sovereign, indeed, who through his infallibility is more perfectly absolute than any absolute monarch in the world.³⁸

Against these assertions, the German bishops felt it necessary to compose a clarification, which was subsequently approved without reserve by Pope Pius IX.³⁹

This clarification, in part, stated that

The pope is bishop of Rome but not bishop of another diocese or another town; he is not bishop of Breslau nor bishop of Cologne, etc. But as bishop of Rome he is at the same time pope, head of all the bishops and the faithful, and his papal power should be respected and listened to everywhere and always, not only in particular and exceptional cases. In this position the pope has to watch over each bishop in the fulfilment of the whole range of his episcopal

³⁸ English translation of German text found in J.-M.-R. TILLARD, *op. cit.*, pp. 138-139.

³⁹ Cf. *Ibid.*, pp. 140-141.

charge. If a bishop is prevented, or if some need has made itself felt, the pope has the right and the duty, in his capacity as pope and not as bishop of the diocese, to order whatever is necessary for the administration of the diocese.⁴⁰

This clarification is important, and we will examine its main ideas again in a later section. But it is also important to note the fact that such a clarification had to be made at all.

It was not only in Germany, however, that such reactions occurred. England, too, saw a rejection of the new dogma, typified in a celebrated exchange between Cardinal John Henry Newman and William Gladstone, then Prime Minister of England. Gladstone had questioned the loyalty of Catholics to their country in his 1874 pamphlet *The Vatican Decrees in Their Bearing on Civil Allegiance*.

Newman described the purpose of the pamphlet as follows:

Now the main point of Mr. Gladstone's Pamphlet is this: that, since the Pope claims infallibility in faith and morals, and since there are no "departments and functions of human life which do not and cannot fall within the domain of morals" (p. 36), and since he claims also "the domain of all that concerns the government and discipline of the Church," and moreover, "claims the power of determining the limits of those domains," and "does not sever them, by any acknowledged or intelligible line from the domains of civil duty and allegiance" (p. 45), therefore Catholics are moral and mental slaves, and "every convert and member of the Pope's Church places his loyalty and civil duty at the mercy of another" (p. 45).⁴¹

⁴⁰ *Ibid.*, pp. 139-140.

⁴¹ JOHN HENRY CARDINAL NEWMAN, *A Letter Addressed to His Grace the Duke of Norfolk on Occasion of Mr. Gladstone's Recent*

Newman responded to this mischaracterization with his famous (and lengthy) *Letter Addressed to His Grace the Duke of Norfolk on Occasion of Mr. Gladstone's Recent Expostulation*. The Duke of Norfolk was the leading Catholic layman in England at the time (in terms of social position), and in the end was a vehicle for Newman to respond to the Prime Minister himself. Gladstone, of course, was most interested in materially slandering Catholics and attempting to show how they were now "duty bound" to be disloyal subjects, and so his interest was not really in considering how the dogmas of Vatican I affected papal-episcopal relationships. Newman's reply, however, does touch upon general principles which apply to these relations, particularly when he quotes from his major sources:

In support of what I have been saying, I refer to one or two weighty authorities:

Cardinal Turrecremata says, "Although it clearly follows from the circumstance that the Pope can err at times, and command things which must not be done, that we are not to be simply obedient to him in all things, that does not show that he must not be obeyed by all when his commands are good. To know in what cases he is to be obeyed and in what not ... it is said' in the Acts of the Apostles, 'One ought to obey God rather than man': therefore, were the Pope to command anything against Holy Scripture, or the articles of faith, or the truth of the Sacraments, or the commands of the natural or divine law, *he ought not to be obeyed*, but in such commands is to be passed over (*despiciendus*)."-Summ. *de Eccl.*, pp. 47, 48.

Bellarmine, speaking of resisting the Pope, says, "In order to resist and defend oneself no authority is required.... Therefore, as it is lawful to resist the Pope, if he assaulted a man's person, so it

Expostulation, p. 224. The page references are Newman's own, referring to parts of Gladstone's publication.

is lawful to resist him, if he assaulted souls, or *troubled the state* (*turbanti rempublicam*), and much more if he strove to destroy the Church. It is lawful, I say, to resist him by not doing what he commands, and hindering the execution of his *will*. "-*De Rom. Pont.*, ii. 29.

Archbishop Kenrick says, "His power was given for edification, not for destruction. If he uses it from the love of domination (*quod absit*) *scarcely will he meet with obedient populations*. "-*Theolog. Moral.*, t. i. p. 158.

Newman's doctrine of the various limits to papal authority, particularly regarding its relationship to conscience, are in fact echoes of the official commentaries on the proposed dogma as it was discussed at Vatican I. Gladstone's interpretations may very well have been motivated by political gain rather than a true personal misunderstanding, but this changes nothing. After all, when making political statements of this kind, a politician typically is not so much trying to convince an audience as to identify with an audience which already holds particular beliefs. Either way, it does demonstrate the particular and popular difficulties the dogma could have in being understood.

Clarifications came from within the Church in response to her opponents. Despite these clarifications, however, it must be admitted that, over time, a certain "papal maximalist" ethos did take hold internally in the Church in some quarters. Some, for example, argued (against the official *relatio* of Vatican I) that bishops were now somewhat superfluous. As late as 1956, J. Beyer, an outstanding canonist of his day, wrote:

We should not be surprised, as we said again recently, to see the pope gradually taking on the mission which the bishops have previously exercised

in their dioceses, for it would not be to the good of the Church or the world if different and perhaps contradictory positions were upheld in each and every bishopric. If, in a world which is becoming one, the Church wishes to remain one, the papacy must speak, must speak often and must direct everything. That is why this twentieth century is becoming a new dawn in the Church, the dawn of a universal world, of an international society. And as the national states disappear, the bishoprics will lose their sovereignty, leaving to Peter and his successors the general management of the whole Catholic movement, of all Catholic activity, of all apostolic work.⁴²

The calling of the Second Vatican Council elicited certain cries of exasperation as well, as some deemed the whole exercise unnecessary, now that the Pope was recognized as infallible.

Is an ecumenical council still needed after the dogma of the pope's infallibility? Other journalists have had the same reaction. And I have read that even some theologians formerly believed that the era of ecumenical councils was quite past. Why bring to Rome two thousand patriarchs, archbishops, bishops and superiors-general of religious orders to accomplish what the head of the Church can do on his own? Why, if I may express myself frankly, this general state of commotion, this loss of time, indeed this waste of energy, this futile expense?⁴³

This "papal maximalism" even found expression in the hymnals of the day. In the "St. Gregory Hymnal and Catholic Choir Book", we find the following hymn, entitled "*Long Live the Pope!*":

⁴² J.-M.-R. TILLARD, *op. cit.*, p. 32.

⁴³ *Ibid.*, p. 32.

Long live the Pope! His praises sound again and yet again:
 His rule is over space and time; His throne the hearts of men:
 All hail! the Shepherd King of Rome, the theme of loving song:
 Let all the earth his glory sing, and heav'n the strain prolong.

Beleaguered by the foes of earth, beset by hosts of hell,
 He guards the loyal flock of Christ, a watchful sentinel:
 And yet, amid the din and strife, the clash of mace and sword
 He bears alone the shepherd staff, this champion of the Lord.

His signet is the Fisherman's; no sceptre does he bear;
 In meek and lowly majesty he rules from Peter's chair:
 And yet from every tribe and tongue, from every clime and zone,
 Three hundred million voices sing, the glory of his throne.

Then raise the chant, with heart and voice, in church and school and home:
 "Long live the Shepherd of the Flock! Long live the Pope of Rome!"
 Almighty Father, bless his work, Protect him in his ways,
 Receive his prayers, fulfil his hopes, and grant him "length of days".⁴⁴

That this text received an episcopal *imprimatur* gives some indication of the degree to which this attitude had penetrated popular consciousness. Many other examples could be cited, a great number of which can be found in Father Tillard's research⁴⁵, so I will not repeat them here. Suffice it to say that the situation was ripe for a course correction, back to the original intent of Vatican I.

1.5 The renewal of the dogma: Vatican II

The word "renewal" is chosen here deliberately, because of its potential double meaning. It could be taken to mean, for example, that Vatican II reaffirmed,

⁴⁴ Text by HUGH T. HENRY, *St. Gregory Hymnal*, hymn no. 122, p. 154.

⁴⁵ J.-M.-R. TILLARD, *op. cit.*, chapter 1, *passim*.

rather than rejected, the Vatican I dogma of primacy of papal jurisdiction. The term “renewal” could also mean that the dogma was in some way also “made new”, “expanded upon”, “made clearer”. Thanks to its double meaning, the word “renewal” can enlighten our understanding of the contemporary theological context, so informed as the latter is by the decisions of Vatican II.

The Dogmatic Constitution on the Church of Vatican II included a section entitled “On the Hierarchical Structure of the Church and in Particular on The Episcopate”, in which it reviewed in particular the teaching of Vatican I. In the opening paragraph of this section, the Council declared that “following closely in the footsteps of the First Vatican Council...all this teaching about the institution, the perpetuity, the meaning and reason for the sacred primacy of the Roman Pontiff and of his infallible magisterium, this Sacred Council again proposes to be firmly believed by all the faithful.”⁴⁶ The Council did go on, however, to declare that “this Council is resolved to declare and proclaim before all men the doctrine concerning bishops.”⁴⁷ In essence, then, what the Second Vatican Council proposed to do was to complete the work which had been promised at Vatican I. The First Vatican Council, as we have seen, was to have presented and discussed a second constitution, after *Pastor Aeternus*, which would have included teaching specific to the role and identity of the episcopal office, but this work was cut short by the political problems of the day. *Lumen Gentium*, at least in this part, sought to

⁴⁶ VATICAN II, *Lumen Gentium*, no. 18

⁴⁷ *Ibid.*, no 18

complete that work, so long needed.

Of course, it could be argued that Chapter III in *Lumen Gentium* is not truly a continuation of the work of Vatican I, but is instead a radical departure from it. These arguments are specious, however, and likely result from a view (already shown to be widespread) that Vatican I was more ultramontane than it actually was. In Chapter III of *Lumen Gentium* we find no less than seven direct references to *Pastor Aeternus* and, more interestingly, 10 additional references to the various *relationes* of Zinelli and Gasser, as well as the work of Kleutgen, who was instrumental in preparing the schema at Vatican I. As we have seen, these *relationes* were important in giving the proper sense of the *Pastor Aeternus*, but were subsequently largely forgotten. By including them here, Vatican II gives the lie to the notion that it is not in continuity with Vatican I – but at the same time, it corrects inaccurate perceptions as to what Vatican I actually did (and did not) teach.

It must be admitted that a complete doctrine resolving the question of double jurisdiction, something which was called for at Vatican I, was not provided by Vatican II. Nevertheless, Vatican II did do more than simply dust off some old speeches and schemata. Firstly, Vatican II settled the question of the sacramentality of the episcopate, in making the following declaration:

The Sacred Council teaches that by episcopal consecration the fullness the sacrament of Orders is conferred, that fullness of power, namely, which both in the Church's liturgical practice and in the language of the Fathers of the Church is called the high priesthood, the supreme power of the sacred

ministry.⁴⁸

Beyond the fact that episcopal “consecration” is a sacrament, however, the Council also taught that the recipient himself becomes a sacrament, when it stated that

in the bishops, therefore, for whom priests are assistants, Our Lord Jesus Christ, the Supreme High Priest, is present in the midst of those who believe...by means of the imposition of hands and the words of consecration, the grace of the Holy Spirit is so conferred, and the sacred character so impressed, that bishops in an eminent and visible way sustain the roles of Christ Himself as Teacher, Shepherd and High Priest, and that they act in His person.⁴⁹

Because this appointment comes from Christ himself through the sacrament, “The pastoral office or the habitual and daily care of their sheep is entrusted to them completely; nor are they to be regarded as vicars of the Roman Pontiffs, for they exercise an authority that is proper to them.”⁵⁰

A second important teaching of Vatican II derives from this sacramentality: that the bishops, taken together, constitute a single college. The Council taught that “just as in the Gospel, the Lord so disposing, St. Peter and the other apostles constitute one apostolic college, so in a similar way the Roman Pontiff, the successor of Peter, and the bishops, the successors of the apostles, are joined together.”⁵¹ The head of this college is the Roman Pontiff, who is himself a

⁴⁸ *Ibid.*, no. 21.

⁴⁹ *Ibid.*, no. 21.

⁵⁰ *Ibid.*, no. 27.

⁵¹ *Ibid.*, no. 22.

member of the College. “The College, always and of necessity, includes its head... In other words, it is not a distinction between the Roman Pontiff and the bishops taken collectively, but a distinction between the Roman Pontiff taken separately and the Roman Pontiff together with the bishops.”⁵² This affirmation of the collegiality of the episcopal order, particularly as a subject of supreme pastoral authority in the Church (especially in an ecumenical council), gives rise to the need for extended episcopal cooperation in intermediate bodies, such as episcopal conferences and synods of bishops, both of which are envisaged in the Decree on the Office of Bishops.⁵³ In particular, however, collegiality affirms the existence of a responsibility that each bishop has, not only for his own diocese, but for the whole world. Vatican II taught that

the individual bishops, who are placed in charge of particular churches, exercise their pastoral government over the portion of the People of God committed to their care, and not over other churches nor over the universal Church. But each of them, as a member of the episcopal college and legitimate successor of the apostles, is obliged by Christ's institution and command to be solicitous for the whole Church, and this solicitude, though it is not exercised by an act of jurisdiction, contributes greatly to the advantage of the universal Church.⁵⁴

In this context, jurisdiction is seen as merely a manner of exercising the solicitude which the bishops possess. In the case of the local bishop, the “wider” solicitude

⁵² *Ibid.*, explanatory note, no. 3.

⁵³ VATICAN II, *Christus Dominus*, chapter one, *passim*.

⁵⁴ VATICAN II, *Lumen Gentium*, no. 23.

which he possesses is not exercised by acts of jurisdiction, but the contrast which this implies indicates that an investigation of this wider solicitude should help place the question of jurisdiction in its proper context.

In what sense, then, can we say that Vatican II allowed for a “renewal” of the dogma of the primacy of the Pope? The answer is: in both senses. Certainly, Vatican II reaffirmed the place of the Pope as Head of the College of Bishops, with a supremacy of jurisdiction around the world. But at the same time, Vatican II placed this supremacy in a particular context – that of the sacramentality of the Church (and the episcopacy) and the collegiality of all the bishops. Even if the concerns raised at Vatican I regarding the existence of double jurisdiction were not entirely addressed, the pieces are in place, one might say, for a renewed look at the question of double jurisdiction.

1.6 Conclusion: can the dogma be replaced?

A chapter that begins with a provocative title now ends with a provocative question! In a sense, the question has already been answered in the previous section entitled “What is a dogma?” The real question now, it would seem, is: is there a way to express the truth of the dogma in a manner acceptable to the ecumenical partners of the Roman Catholic church? In fact we seek more than simply a more convenient wording – we seek a new vision of things. It is a bit like the story of the three blind men sent to report back on the nature of an elephant. One feels the trunk and declares that an elephant is like a hose. Another feels a leg,

and declares that an elephant is like a tree. The third feels the side of the beast, and declares that an elephant is like a wall. The question is not who is right and who is wrong. The question is: what is the best “light” in which to examine, to “see”, the dogma?

Certainly, much of Catholic ecclesiology since the Second Vatican Council has been preoccupied with this very question, as have the various ecumenical dialogues in which the Catholic Church has been engaged. A multiplicity of possible perspectives have emerged, some not entirely complementary. In an article for *The Tablet*, Ladislav Orsy writes “we can discern two main theories in understanding the meaning of episcopal collegiality, both with far-reaching consequences.”⁵⁵ He refers to these theories as “two interpretations of the Second Vatican Council’s teaching. They are mutually exclusive.”⁵⁶

If the first interpretation is correct, no assembly of bishops below the level of an ecumenical council can ever have a corporate charism, not even if the pope is presiding over the group...

If the second interpretation is correct, bishops’ assemblies, provided they are in communion with the See of Peter, have their own corporate charism.⁵⁷

In an article by Walter Kasper, written before he became a Cardinal, he too refers to a diversity of theological perspectives in the contemporary period. His concern

⁵⁵ LADISLAV ORSY, “Power to the Bishops”, *The Tablet*, 7 July 2001, p. 976.

⁵⁶ *Ibid.*, p. 977.

⁵⁷ *Ibid.*, p. 977.

is not about the collegial communion of the individual bishops, but with the communion of local Churches in the universal Church. His point of view is that “the debate about the primacy of the universal Church does not concern church teaching, but theological opinion and various philosophical presuppositions. One side tends to take as its starting point the Platonic view of the primacy of ideas, and find the universal in them; the other tends to an Aristotelian view that the universal is realised in actual reality.”⁵⁸

In such a diverse climate, how are we to proceed, especially given that these very questions raised above touch directly on the question which we are studying? Given that diverse theories have been raised in the past regarding the problem of double jurisdiction, we will undertake to examine and critique these theories in the light of other theological realities. The next two chapters will examine two of these questions: the relationship between questions of jurisdiction and the sacramentality of the Church, and the relationship between jurisdiction and the mission of the Church.

⁵⁸ WALTER KASPER, “On the Church”, *The Tablet*, 23 June 2001, p. 930.

CHAPTER TWO

JURISDICTION AND THE SACRAMENTALITY OF THE CHURCH

Traditionally, teaching on sacramentality has begun with a treatise on the seven sacraments of the Church. This does not mean, however, that in a study of the analogy of the word "sacrament", that the seven sacraments necessarily hold the central point. In fact, sacramental theology, even in the thirteenth century, recognized that "les sept sacrements représentaient déjà une application analogique de la sacramentalité, et ne constituaient pas l'origine de la sacramentalité."⁵⁹ Saint Thomas notes this himself, in question 60 of part III of the Summa. In article 1, he defends the understanding of the word sacrament as sign, and notes that it is one of the analogical uses of the word, comparing it to the use of the word health:

All things that are ordained to one, even in different ways, can be denominated from it: thus, from health which is in an animal, not only is the animal said to be healthy through being the subject of health: but medicine also is said to be healthy through producing health; diet through preserving it; and urine, through being a sign of health. Consequently, a thing may be called a "sacrament," either from having a certain hidden sanctity, and in this sense a sacrament is a "sacred secret"; or from having some relationship to this sanctity, which relationship may be that of a cause, or of a sign or of any other relation. But now we are speaking of sacraments in a special sense, as implying the habitude of sign: and

⁵⁹ BENOÎT-DOMINIQUE DE LA SOUJEOLE, "Questions actuelles sur la sacramentalité", *Revue Thomiste*, July-September 1999, Tome XCIX, no. 3, p. 486.

in this way a sacrament is a kind of sign.⁶⁰

In other words, while the first meaning of health is something actually in the animal, urine can be called healthy because it signifies the health in the animal. Applied to sacraments, this would mean that all that is a sacrament either is (in an analogous sense) a sign of something sacred, or (in a proper sense) is that sacred thing itself. St. Thomas continues his analysis, as noted above, using sacrament in a special sense, i.e. to discuss the seven sacraments. Nothing, however, prevents us from exploring other understandings of the word sacrament, especially the first principle, as it can help us to understand the sacramental dimension of authority in the Church (as will be seen).

2.1 Questions actuelles sur la sacramentalité: a recent article

An important article has recently appeared on the question of sacramentality, entitled “Questions actuelles sur la sacramentalité”, written by Br. Benoît-Dominique De La Soujeole, in the *Revue Thomiste*. He begins by noting that “Lors du renouveau théologique contemporain, le thème de la sacramentalité a été progressivement appliqué à l’Église dite « sacrement du salut ». Il en résulte aujourd’hui un usage assez fréquent du vocable « sacrement », mais avec un certain flou conceptuel.”⁶¹ Br. De La Soujeole proposes, then, to review the use of the

⁶⁰ ST. THOMAS AQUINAS, *Summa Theologiae*, tertia pars, q. 60, a. 1.

⁶¹ BENOÎT-DOMINIQUE DE LA SOUJEOLE, *op. cit.*, p. 483.

notion of sacramentality as used in contemporary theology. This approach is important, because it looks at sacramentality, not from the starting point of a treatise on sacraments, but from the very usage of the term, and as such can contribute to what is being considered in this paper. He makes a number of key points.

Firstly, he notes that in the second look that has been taken at the sacraments in the last century, the attribution of sacramentality has expanded. “On considère aussi et surtout — c’est un des grands apports du renouveau théologique de ce siècle — la sacramentalité comme régime général du salut, c’est-à-dire comme étant l’expression du mode choisi par Dieu pour sauver le monde. Bien d’autres réalités que les sept sacrements sont ainsi qualifiées de sacramentelles : le Christ lui-même, l’Église, l’Écriture sainte...Dès lors, la question de la sacramentalité se révèle plus large que la seule étude des sept sacrements.”⁶² He also makes sure to point out the originating point, as is necessary with any study of analogy, drawing on the insights of Martin Luther: “Le Christ est l’unique sacrement *fondateur* (en allemand : *Ur-sakrament*), c’est-à-dire qu’il est l’origine en sa personne de toute l’économie sacramentelle. Les autres réalités sacramentelles (l’Église, les sept sacrements) sont des sacrements *fondés* (*Grund-sakrament*). Il y a donc à distinguer dans la sacramentalité, une sacramentalité *originnaire*, constituée pleinement et en permanence dans le Christ, et une sacramentalité *dérivée*, *reçue* et toujours radicalement *dépendante*, qui se réalise

⁶² *Ibid.*, pp. 483-484.

dans l'Église et les sept sacrements."⁶³

Having placed Christ at the centre, Br. De La Soujeole goes on to describe in what manner Christ can be understood to be occupying that centre. "La théologie du mystère-sacrement repose tout entière sur l'Incarnation. La volonté divine de salut a été sacramentalisée dans l'humanité du Christ. Le Christ est le sacrement fondamental de l'accomplissement du salut puisque c'est en lui que se rencontrent l'invitation divine et la réponse humaine. Dans un tel contexte, la théologie sacramentaire ne prend plus sa source dans les sept sacrements, mais dans le Christ."⁶⁴ The Incarnation is the "place" in which to found the sacramental function of Christ, because "le Christ réalise en lui un certain rapport entre le visible de son humanité et l'invisible de sa divinité. Ce rapport est un rapport de signe : le visible renvoie à l'invisible, et par un rapport d'efficience : l'humanité est l'instrument de la divinité."⁶⁵ Br. De La Soujeole continues with insights gained from the iconoclast crisis, such as the legitimacy of the icon and the grounding of this legitimacy in the Incarnation of Christ, applying these principles to those of the sacramental economy.

All the above principles are very precious and must be retained. Despite this, certain critiques can be made of his summary. Br. De La Soujeole rightly points out the distinction between an "entitative" sacramentality and an "operative"

⁶³ *Ibid.*, p. 488.

⁶⁴ *Ibid.*, p. 490.

⁶⁵ *Ibid.*, pp. 486-487.

sacramentality⁶⁶, the latter being, for example, the seven sacraments, but he incorrectly locates the origin of the “entitative” sacramentality in the Incarnation. The Incarnation, in traditional Catholic theology, is not related to the essence of the Trinity, but to the operations of the Trinity: it is the Trinity *ad extra* which is considered, not the Trinity *ad intra*. As such, locating the originating principle of sacramentality in the Incarnation biases a sacramental theology towards the “operative” dimension, over the “entitative”. I am of the opinion that one must find the originating principle of sacramentality, not in the movement of the Incarnation, but in the movement of the eternal generation of the Word by the Father. The Word, incarnate or not, takes all he has from the Father. He is, in the truest possible sense, the “sacrament” of the Father, sharing his very essence and nature, without at the same time being the Father. The Incarnation thus becomes the operative means of the revelation of the “entitative” sacramentality, and sacramental theology finds its intrinsic link with fundamental theology.

A second critique pertains to the description of the unity between the sign and the thing signified, which in the article is very vague. Br. De La Soujeole writes, “Par « sacrement », on entend, d’une façon très générale, une certaine unité entre un signe et la réalité signifiée...Deux questions principales retiennent alors l’attention : d’une part, le lien d’unité entre le signe et la réalité signifiée, et, d’autre part, le mode de relation entre le signe et la réalité.”⁶⁷ This is all very fine and

⁶⁶ *Ibid.*, p. 487.

⁶⁷ *Ibid.*, p. 484.

good, but what is the “kind of” unity? It must be admitted that St. Thomas, in the *Summa*, did not do much better: he calls a sacrament “a kind of sign,”⁶⁸ but does little to explain the link of the sign to the thing signified, except to state that is an efficient sign. But on what is this efficiency grounded? I believe it must be founded on the philosophical distinction between true being and substantial being. The term *sacrament* means “sign”, but in a manner more complete than a mere symbol.⁶⁹ A symbol has meaning only because of an extrinsic convention. For example, there is no intrinsic connection between the word “sandwich” and what I ate for lunch today—it is the convention of the English language that has established the correlation between the two. A sacrament, while it also has this external function, does not end there: also has an internal, intrinsic connection to the thing signified, such that the sacrament is a true manifestation of an otherwise invisible reality. The term “sacrament” is descriptive of a “mode of being” of the thing signified, rather than merely a description of an “appropriate symbol.” An example is the quarrel among Christians as to the Real Presence in the Eucharist. If the term “Body of Christ” applied to the bread is merely symbolic, then it is used because it is a convention of people, like any other use of language. The bread is also merely a symbol. But if the term indicates the existence of a hidden reality, then the word

⁶⁸ ST. THOMAS AQUINAS, *Summa Theologiae*, tertia pars, q. 60, a. 1.

⁶⁹ I wish to simply point out that I am aware of the work of Fr. Chauvet, who uses the term “symbol” in a different manner than here. I use the term, however, in its common English theological usage, which developed during a period of dispute with Protestants, contrasting “substantial” with “symbolic” in disputes concerning the Real Presence. A more detailed discussion regarding the use of the term would take us outside the scope of this paper.

remains symbolic in the strictest sense, but the “bread” before me is not merely a symbol, but a sacrament: a sign of a greater reality in which that reality is intrinsically present, not merely connected by convention. That is why I am able to properly speak of a “real” presence, and even to point to a white wafer and say “that is Christ” without it being untrue. It is why my adoration of a wafer and a cup of wine is not idolatry. Symbols, therefore, are carriers of true being only, while sacraments, by their intrinsic connection, are signs of substantial being as well, the manner in which this is accomplished finding its source in the “Incarnation as revelation”. I would like to point out that such a perspective permits one to better understand sacraments as sacraments of faith, and not mere works: what is revealed is the true action of Christ, who is in turn the Revealer of the Father, in whom faith must be placed. Placing faith in the efficacy of a ritual, then, is not placing faith in a work, but in a locus of revelation, and so can be seen to grant justification.

Despite this critique, however, we must not underestimate the importance of the points raised by Br. De La Soujeole. Placing Christ as the originating principle of sacramentality is important, as keeping that insight in mind can help us avoid excessive discussions of the polity of Church governance and authority, and help us stay focussed on the original theoretical question: how does one reconcile two concurrent authorities? But since we are discussing authority in the Church, we must turn now to an examination of how the sacramental principle applies to the Church itself.

2.2 Sacramentality as applied to the Church

That the Church is a sacrament and participates in the sacramental principle is, without a doubt, one of the great rediscoveries of the 20th century theological renewal. That this use of terminology is recent can be seen in the difference between the encyclical *Mystici Corporis* of Pius XII and the documents of Vatican II, published only 20 years later. Quite simply, Pius XII not once refers to the Church as a sacrament. He does use the term, but only to speak of the seven sacraments, noting that these are “vital means of sanctification” for the body, calling them the “proper means to provide for its own life, health and growth.”⁷⁰ Of other uses of the term sacrament, however, he is silent. Despite this, it must be admitted that the encyclical did prepare the way for Vatican II and the renewal of the sacramental principle, in that, by defining the church as the “mystical body of Christ”, Pius XII opened the door to a view of the term “body” which goes beyond a mere sociological unit. As well, he does affirm that Christ continues to rule the Church invisibly, through visible representatives (the Pope and bishops), without explaining the mode of representation.

Still, this is a far cry from Vatican II, which uses the sacramental terminology in nine different places. These can be divided into three categories. First, there are uses of the sacramental terminology which are original to the text. Next, there are uses of the sacramental terminology which refer to past patristic or

⁷⁰ PIUS XII, *Mystici Corporis*, no. 18.

liturgical sources. Lastly, there are references which are nothing more than footnotes to other uses already mentioned. The first two, then occupy our interest more, because they either (a) show an original use of the term, or (b) show its roots in theological tradition. The original references are as follows:

Lumen Gentium, no. 1: “the Church is in Christ like a sacrament or as a sign and instrument both of a very closely knit union with God and of the unity of the whole human race”⁷¹

Lumen Gentium, no. 48: “He sent His life-giving Spirit upon His disciples and through Him has established His Body which is the Church as the universal sacrament of salvation.”⁷²

Ad Gentes, no. 5: “the Lord, having now received all power in heaven and on earth (cf. Mt. 28.18), before He was taken up into heaven (cf. Acts 1.11), founded His Church as the sacrament of salvation”⁷³

These passages show us three important truths received by Vatican II: (a) that, as a sacramental reality, the Church has salvific value; (b) that it is the Lord who established the Church; and (c) that it is the Spirit which operates the establishment of this Church as a sacrament.

In addition to these original references, there are the patristic and liturgical references mentioned earlier. The patristic references draw exclusively on Cyprian,

⁷¹ VATICAN II, *Dogmatic Constitution on the Church*, no. 1.

⁷² *Ibid.*, no. 48.

⁷³ VATICAN II, *Decree on the Missionary Activity of the Church*, no. 5.

from his treatise *On the Unity of the Catholic Church*, and on his *Epistle 69*. The latter refers to the Church as being an “inseparable sacrament of unity”⁷⁴, while the former teaches that the Church is a “sacrament of unity, a bond of concord inseparably cohering”⁷⁵. The only liturgical reference mentions the Church as a “wondrous sacrament.”⁷⁶

As can be seen, these references, while important, are in themselves quite limited. They do not amount to much as a theology of the sacramental dimension of the Church. Their value lies in what they signal: that the theology of Church-as-sacrament, as developed before the Council, was to be approved, and that this theology should be pursued and extended. These references do what a Council does best: discern what in the development of theology is to be received. It is important for us, therefore, to explore what the theologians, in both their pre- and post-conciliar writings, had to say on the sacramental dimension of the Church. I will limit myself to four whose writings on the subject are important: Congar, Rahner, Schillebeeckx, and Tillard.

⁷⁴ ST. CYPRIAN, *Epistle 69, To Magnus, on baptizing the Novatians, and those who obtain grace on a sick-bed*, no. 6 (epistle 75 in the Ante-Nicene Fathers collection, volume 5, p. 399).

⁷⁵ ST. CYPRIAN, *On the Unity of the Catholic Church*, no. 7 (Ante-Nicene Fathers collection, volume 5, p. 423).

⁷⁶ The footnote reads: “Prayer before the second lesson for Holy Saturday, before the restoration of Holy Week by Pius XII.”

2.2.1 E. Schillebeeckx, *Christ, the Sacrament of the Encounter with God*

Fr. Schillebeeckx gained fame as a writer on issues of dogmatic theology, most significantly about the sacraments. His work, *Christ, the Sacrament of the Encounter with God*, remains a classic. It is worthwhile, then, to see how the sacramental principle is conceived in this work.

Schillebeeckx links the question of sacraments with the question of grace. “Because grace is a personal encounter with God, it ‘makes history,’ and precisely for this reason it is also ‘sacramental.’ For every supernatural reality which is realized historically in our lives is sacramental.”⁷⁷ The ultimate expression of this encounter with God, however, is obviously the encounter with God in Christ: hence, Christ himself is the central sacrament, and the one whose presence is made possible by the next level of sacraments, i.e. the Church and the seven sacraments. Schillebeeckx writes, “the Church’s sacraments are not things but encounters of men on earth with the glorified man Jesus by way of a visible form. On the plane of history they are the visible and tangible embodiment of the heavenly saving action of Christ. They are this saving action itself in its availability to us; a personal act of the Lord in earthly visibility and open availability.”⁷⁸

Schillebeeckx does have interesting things to note regarding the sacramental principle itself, even if he does not call it that. Noting the situation of “metaphysical

⁷⁷ E. SCHILLEBEECKX, *Christ, the Sacrament of the Encounter with God*, p. 5.

⁷⁸ *Ibid.*, p. 44.

difference” which the sacramental principle requires, he writes, “sacramentality thus bridges the gap and solves the disproportion between the Christ of heaven and unglorified humanity, and makes possible a reciprocal human encounter of Christ and men even after the ascension, though in a special manner. A permanent sacramentality is thus an intrinsic requirement of the Christian religion.”⁷⁹ He goes on to note that this sacramentality is realized, first and foremost, not in the seven ritual sacraments, but in the Church-as-sacrament. “Here the first and most fundamental definition of sacramentality is made evident. In an earthly embodiment which we can see and touch, the heavenly Christ sacramentalizes both his continual intercession for us and his active gift of grace...This visible manifestation is the visible Church.”⁸⁰

Turning now to the subject which interests us, Schillebeeckx devotes important pages to the sacramental dimension of authority in the Church. Schillebeeckx never denigrates the place of the laity in the Church, but rather, points out that “the Church...is not merely a means of salvation. It is Christ’s salvation itself, this salvation as visibly realized in this world. Thus it is, by a kind of identity, the body of the Lord...This visibility of grace defines the whole Church; not the hierarchical Church only, but also the community of the faithful...This means that not only the hierarchy but also the believing people belong essentially

⁷⁹ *Ibid.*, p. 44.

⁸⁰ *Ibid.*, p. 45.

to the primordial sacrament which is the earthly expression of this reality.”⁸¹ Nevertheless, regarding authority, he does note that “the sacramental manifestation of the Lord in his role as head of the People of God is realized formally and functionally in the apostolic office, the ecclesiastical hierarchy. In this respect the hierarchical Church is sovereign with regard to the community of the faithful.”⁸² This is not because of a sociological or political arrangement, but because the very structure of authority itself is sacramental.

2.2.2 *Karl Rahner: The Church and the Sacraments*

The work of Karl Rahner is as impressive as it is voluminous, and so it would be difficult to do a complete review of the literature he has produced in order to arrive at definite conclusions regarding his views of the sacramentality of the Church. Nevertheless, he did produce a short volume in the series *Quaestiones Disputatae* entitled “The Church and the Sacraments”, which does include an important exposition called “The Church as the Fundamental Sacrament”. I propose to review this text, and see what comes out of it regarding the notion of the sacramentality of the Church.

The sacramental-ecclesiology of Rahner is founded in his sacramental-Christology. For him, “Christ is the primal sacramental word of God, uttered in the

⁸¹ *Ibid.*, pp. 48-49.

⁸² *Ibid.*, p. 49.

one history of mankind, in which God made known his irrevocable mercy that cannot be annulled by God or man, and did this by effecting it in Christ.”⁸³ The Church is seen as the continuance of this sacramental presence and function of Christ: “The Church is the abiding presence of that primal sacramental word of definitive grace, which Christ is in the world, effecting what is uttered by uttering it in sign. By the very fact of being in that way the enduring presence of Christ in the world, the Church is truly the fundamental sacrament, the well-spring of the sacraments in the strict sense. From Christ the Church has an intrinsically sacramental structure.”⁸⁴

This definition is of critical importance for Rahner, because it permits him to found a theology of the seven sacraments (which is his real goal). “Because first of all and independently of the usual idea of a sacrament, we envisage the Church as the fundamental or primal sacrament, and form the root idea of a sacrament in the ordinary sense as an instance of the fullest actualization of the Church’s essence as the saving presence of Christ’s grace, for the individual, we can in fact obtain from this an understanding of the sacraments in general.”⁸⁵ Unfortunately, this treatment remains insufficient, because Rahner never does provide a treatment of the sacramental principle in itself (at least, not in this work). It is as though he were starting with the theology of the seven sacraments, founds the source of that

⁸³ KARL RAHNER, *The Church and the Sacraments*, p. 18.

⁸⁴ *Ibid.*, p. 18.

⁸⁵ *Ibid.*, p. 24.

theology in Christ, applies it to the Church, and returns to the seven sacraments, *without ever leaving the theological realm to found his sacramental theology in a metaphysic.* The difference is important, when it comes to founding the sacramental dimension of authority, because depending on the answer, that authority will be either founded in the sacrament of orders (the rite), or in the fact that the recipient of that sacrament becomes himself a sacrament (in the more metaphysical sense).

Turning from Rahner's general treatment of the sacraments to the sacrament of Orders in itself, we find that his treatment of the question of authority is equally thin. During a discussion of how the sacraments are valid even if offered by an unworthy minister, he does mention that "to be sure the ministry keeps its validity and its bearer his authority and power, even if as an individual he is a sinner and exercises his office itself in a sinful way."⁸⁶ But what does this authority consist of? The context in which Rahner places it is the context of the administration of the sacraments: Orders is seen as "the conferring by God of the office of administering the sacraments."⁸⁷ But this is no recognition of the sacramental dimension of the person himself who receives the sacrament. Where, for example, is the identity of the deacon in this, given that there is no sacrament which is reserved for him to administer as distinct from a lay person?

While more study would have to be done of Rahner's overall work, this

⁸⁶ *Ibid.*, p. 98.

⁸⁷ *Ibid.*, p. 105.

published study of his is incomplete in its treatment of the sacramental principle, especially with regard to the notion of “minister-as-sacrament.”

2.2.3 *Yves Congar: Un peuple messianique*

It is clear, in examining the body of work of Yves Congar, that he held a particular love for ecclesiology and for the Church in general. It is said that, if he turned more to questions of pneumatology in his later career, it was out of love for the Church and a desire to recapture the pneumatological dimension of ecclesiology. Choosing among his works for a study on the Church as sacrament is not easy, but I have settled on “Un peuple messianique: salut et liberation”, part of the *Cogitatio Fidei* collection (volume 85). This short work is divided into 3 main parts, the first of which is entitled “L’Église: sacrement du salut”. Obviously, it has a certain interest for our subject.

This being said, however, we must realise that Congar’s background as a historian colours the way in which he approaches a theological topic. It is not as though Congar takes a completely dispassionate view of things. On the contrary, he does take positions on various theological positions as they have been presented throughout history. What is different is his method. Rather than argue a point, he will ask a question, and proceed to present the various responses which authors (both ancient and modern) have provided to the question. For example, he asks, “what does the Council understand by « sacrament of salvation » ,” but his answer begins with a review of German theology. We must dig a bit.

While Congar's presentation of the history of the terms "mysterion" and "sacramentum" are fascinating, and theologically rich, the core of his theology of the sacramentality of the Church can be found in the following quote:

Si un sacrement est constitué par la présence d'une certaine réalité à deux plans, l'un invisible, l'autre visible, on ne voit que trois façons dont cela peut se réaliser : une unité substantielle dans l'être, la signification, la causalité. Le visible et l'invisible sont unis de la première façon en Jésus-Christ, et également dans l'Eucharistie ; là en effet le principe substantiel d'existence de la réalité physique du pain et du vin est assumé par le Christ glorieux lui-même, en sorte que les « espèces » sont comme les accidents de Sa substance. Dans le grand sacrement qu'est l'Église et dans les (sept) sacrements, la réalité invisible de grâce est signifiée et instrumentalement causée. C'est en cela que consiste la nature sacramentelle de l'Église.⁸⁸

A complete theology can be found in this simple citation. It is, in essence, the centre of a theology of the sacramental principle, in which he identifies, through a recognition of metaphysical realities, the way that principle can be said to work. In addition, it points out how he sees the Church as a sacrament: not in a substantial unity of being, but as a sign and instrument. This is to be differentiated from the core origin of sacramentality, which is the Son of God as Word:

Même Dieu se pluralise ainsi d'une certaine manière : non qu'il y ait plusieurs Dieu, mais le Père s'exprime dans le Fils, qui est son « image », son « caractère », son Verbe, l'Empreinte de sa substance, le Resplendissement de sa gloire. Ces expressions sont bibliques, mais c'est à peine si l'on ose parler de « symbole » pour le Verbe éternel. C'est cependant parce que le Verbe joue ce rôle

⁸⁸ YVES CONGAR, *Un peuple messianique*, p. 25.

que, incarné, il peut être le reflet, l'image, la révélation du Père.⁸⁹

With regards to the Church as a sacrament, therefore, “il faut reconnaître le caractère analogique.”⁹⁰ Nevertheless, the “valeur épiphanique ou sacramentelle générale des choses créés [est] fondée, finalement, dans l'Existence divine elle-même.”⁹¹

2.2.4 *The contribution of Tillard: L'Église locale*

Schillebeeckx, Rahner, and Congar are great lights of the 20th century theological renewal, and they are representative of a whole movement of theology which sought to redefine the relationship between Christ and his Church in terms of sacramentality. One cannot help but notice, however, that all of these tend to regard the Church only in terms of its universality. In other words, when they state that “the Church” is a sacrament, they are in general referring to the Church as a universal institution. It is within this context that Tillard is able to make a unique contribution: putting into relief the sacramentality, not only of the universal Church, but even of the local church. This is not to say that the others are somehow opposed to the notion, but simply that their work does not extend this far. While beyond the scope of this paper, it would be interesting to comb the works of these

⁸⁹ *Ibid.*, p. 23.

⁹⁰ *Ibid.*, p. 25.

⁹¹ *Ibid.*, p. 23.

others to see how their theologies could be extended in this direction. In the meantime, however, we have the excellent work already done by Tillard, in his book *L'Église locale*.

Tillard never does come out and state “the local Church is as sacramental a reality as the universal Church.” He does, however, present important images which effectively convey this conclusion, through his discussions of the one and the many. For example, he notes that “il n’est aucune authentique Église locale qui, de par la présence en elle de quelque élément disparate, permettrait de penser qu’il existe autre chose qu’une unique *Église de Dieu*, bien qu’elle soit dans la multiplicité des *Églises de Dieu*.”⁹² How can the Church be one and multiple at the same time, single Church present in many Churches? It is thanks to the application of the sacramental principle. Tillard uses the important image of the Eucharist to make his point: “On dira que dans cent Églises il n’y a pas plus d’Église de Dieu qu’en l’Église de Jérusalem, tout comme dans cent pains eucharistiés il n’y a pas plus de corps du Seigneur que dans un seul eucharistié.”⁹³ The unity of the disparate sacramental realities (the local Churches) is found in the central principle (Christ, of whom the Church is a sacrament). The universal Church, then, is not a federation of local Churches, but a communion of these Churches, their *esse* interpenetrating to form the universal Church, bearing the very same nature.

This contribution is particularly important when considering the sacramental

⁹² J.-M.-R. TILLARD, *L'Église locale*, p. 75.

⁹³ *Ibid.*, p. 75.

dimension of authority. For some time after Vatican I, the local bishop was seen by some as a mere delegate of the Pope. Tillard notes many examples of such views in his work *The Bishop of Rome*.⁹⁴ Vatican II made it clear that this was an incorrect view, but what impact does this shift in emphasis have on our ecclesiology? Put quite simply, if the universal Church alone is the sacrament of Christ on Earth, then only the head of that universal Church can merit the title of “vicar of Christ”, and all others must have a derived authority only. But if each local Church is itself a sacrament of Christ, then each local bishop is truly a vicar of Christ as well, with an ordinary authority proper to himself. Each local Church, as a sacrament, demands a minister to sacramentally represent the Head of the Church, Christ himself. And Tillard develops this, noting how the Eucharist is what builds the local Church, and how the local bishops original role, before all else, is the presiding of that local celebration: “ce que manifeste l’Eucharistie, que tous célèbrent mais où un seul est le *sacramentum* du Christ Tête, doit se vérifier, analogiquement, sur tous les plans de l’existence ecclésiale.”⁹⁵ And this includes the service of authority.

2.3 The sacramental dimension of authority

Our discussion of the sacramental principle now proceeds from a general

⁹⁴ Cf. ID., *The Bishop of Rome*, pp 29-32.

⁹⁵ ID., *L’Église Locale*, p. 333.

discussion of the theory of the principle, and from its application to the Church as a whole, to an application of it to the notion of authority. To some extent, this has already been accomplished in the previous limited review of the literature. What will be attempted in this section, then, is a synthesis: an attempt to explain what authority in the Church means when the sacramental principle is applied to it.

2.3.1 *Christ, the Head of the Body*

The question of authority in the Church is one fraught with controversies, all of which revolve theologically around one question: what does it mean to state that Christ is Head of his Body the Church? From this is derived a secondary, but highly important, question: how is this Headship realized here on earth? The reformation cried out regarding the Pope, that he “is not head of all Christendom by divine right or according to God’s Word, for this position belongs only to one, namely, to Jesus Christ.”⁹⁶ The fear and understanding was that the papacy sought to replace Christ in some way, which was an intolerable notion. An argument often heard is that, if the Pope is the head of the Church, then the Church winds up with two heads. Against this, Pius XII wrote: “nor against this may one argue that the primacy of jurisdiction established in the Church gives such a Mystical Body two heads. For Peter in view of his primacy is only Christ's Vicar; so that there is only one chief Head of this Body, namely Christ, who never ceases Himself to guide the

⁹⁶ MARTIN LUTHER, *The Smalcald Articles*, part II, article IV, found in the BOOK OF CONCORD, p. 298.

Church invisibly, though at the same time He rules it visibly, through him who is His representative on earth.”⁹⁷ He even extended this function of authority to the bishops, noting:

What we have thus far said of the Universal Church must be understood also of the individual Christian communities, whether Oriental or Latin, which go to makeup the one Catholic Church. For they, too, are ruled by Jesus Christ through the voice of their respective Bishops. Consequently, Bishops must be considered as the more illustrious members of the Universal Church, for they are united by a very special bond to the divine Head of the whole Body and so are rightly called "principal parts of the members of the Lord;" moreover, as far as his own diocese is concerned, each one as a true Shepherd feeds the flock entrusted to him and rules it in the name of Christ.⁹⁸

Nevertheless, as previously noted (see introductory paragraph to Part II, above), it is still unclear under what mode this is made possible (or even intelligible), until the advances of Vatican II.

Let us affirm, then, in a clear manner that Christ is the Head of the Body, the one and only Lord. The *Dogmatic Constitution on the Church* of Vatican II does not contradict this when it teaches that the Pope is “the Vicar of Christ, the visible Head of the whole Church,”⁹⁹ because it expands on how this headship of the Pope (and the other bishops, as the Council notes later), actually manifests the Headship of Christ. This is due to the impression of a sacred character at the

⁹⁷ PIUS XII, *Mystici Corporis*, no. 40.

⁹⁸ *Ibid.*, no. 42.

⁹⁹ VATICAN II, *Lumen Gentium*, no. 18.

ordination of a bishop, which permits him to act truly in the place of Christ. The Council declares that “it is clear that, by means of the imposition of hands and the words of consecration, the grace of the Holy Spirit is so conferred, and the sacred character so impressed, that bishops in an eminent and visible way sustain the roles of Christ Himself as Teacher, Shepherd and High Priest, and that they act in His person.”¹⁰⁰

2.3.2 *The episcopacy: a sacrament of Christ*

The above statement is of utmost importance, because it was not entirely clear what the theological status of episcopal ordination was. That the matter of ordination is the laying on of hands was only affirmed definitively by Pius XII in 1947.¹⁰¹ Episcopal ordination was often called “consecration”, because of this uncertainty, and episcopacy was not even counted among the orders listed in the decree of the Council of Trent concerning the sacrament of Orders.¹⁰² This confusion existed because of the degree of importance that the function of celebrating the Eucharist had in the understanding of the priesthood—and what could a bishop do that a priest could not, in such a case? A tendency developed to see bishops, then, as not having a ministry which was given to them from God by

¹⁰⁰ *Ibid.*, no. 21.

¹⁰¹ Cf. PIUS XII, *Sacramentum Ordinis*, no. 4.

¹⁰² COUNCIL OF TRENT, Decree “The Doctrine on the Sacrament of Orders”, chapter II [p. 161].

ordination, but rather, by delegation from the Pope. Clarifying this view, Vatican II taught very clearly, once and for all, that the episcopacy was a sacrament: “the Sacred Council teaches that by episcopal consecration the fullness of the sacrament of Orders is conferred, that fullness of power, namely, which both in the Church’s liturgical practice and in the language of the Fathers of the Church is called the high priesthood, the supreme power of the sacred ministry.”¹⁰³ Given this, the conclusion that bishops are “ordinaries” is inescapable, as the Council declared: “nor are they to be regarded as vicars of the Roman Pontiffs, for they exercise an authority that is proper to them, and are quite correctly called “prelates,” heads of the people whom they govern.”¹⁰⁴

The title “Vicar of Christ”, then, applies not only to the Pope, but to all bishops, something affirmed by the Council and re-affirmed by John Paul II himself in his book *Crossing the Threshold of Hope*: “The Pope is not the only one who holds this title. With regard to the Church entrusted to him, each bishop is *Vicarius Christi*.”¹⁰⁵ He continues by noting that “if with this title one wants to refer to the dignity of the Bishop of Rome, one cannot consider it apart from the *dignity of the entire college of bishops*, with which it is tightly bound.”¹⁰⁶ This last qualification is of particular importance, because otherwise it leads to a particular danger. After

¹⁰³ VATICAN II, *Lumen Gentium*, no. 21.

¹⁰⁴ *Ibid.*, no. 27.

¹⁰⁵ JOHN PAUL II, *Crossing the Threshold of Hope*, p. 13.

¹⁰⁶ *Ibid.*, p. 13.

Vatican I, there was a strong tendency, as previously noted, to see the bishops as mere “delegates” of Rome, a fact which tended to cause councils and synods to be seen by some as merely superfluous. While no longer seen as mere delegates, the danger still exists, however, of regarding the bishop as Head and Vicar of Christ for his local Church, while the Pope is Head and Vicar for the universal Church. John Paul II corrects this view, by noting that any *universal* authority is rooted first and foremost in a *local* Church: “The Pope is Vicar of Christ with regard to the Church of Rome and, through that Church, of every Church in communion with it.”¹⁰⁷

2.3.3 *The sacramental re-presentation of the Headship of Christ*

Turning to the sacramental principle, we are able to see how it can help us re-found the question of authority. The key question becomes: where is the Headship of Christ manifested in the universal Church? Again, the papacy is not a sacrament, while episcopacy is, so the authority of the papacy cannot appeal to a foundation as some sort of “universal bishop”. Papal authority must, therefore, be itself rooted in episcopacy. The ministry of the local bishop is not limited to the local Church, but must include a responsibility for the universal Church as well. It is the episcopacy as a entity in itself which therefore manifests this Headship.

The key question then changes from *where* the headship of Christ is manifested, to *how* this episcopacy, scattered throughout the world, sometimes

¹⁰⁷ *Ibid.*, p. 13.

divided within itself, is able to manifest it. The historical solutions have often either crushed the role of the local bishop, or have attempted a political solution to somehow “control” the centre. This was the basic problem with the conciliarist approach of the council of Constance, which saw the Pope as the “chairman of the board”, in a sense, of the College of Bishops.¹⁰⁸ This inevitably meant that papal authority was pitted against episcopal authority, which is itself a non-starter, because papal authority *is* episcopal authority, exercised in a particular manner.

Another key insight of Vatican II helps us out of this impasse. Previously to Vatican II, the key focus of liturgists was the correct following of rubrics, mainly to ensure the validity of the appropriate celebration. Perhaps because much of a liturgical celebration is not, strictly speaking, necessary for its valid celebration, severe penalties were attached to deviation from rubrics, as though the threat of punishment and mortal sin was the only real possible motivation for the proper celebration of the liturgy. The importance attached to validity as the determining factor could even be seen in what was required of the laity: one was said to have properly “heard” Mass if one was present from the offertory to communion. With Vatican II, however, came a new view of the liturgy, one which focussed on what one might call the “perfection of the sign.” In its constitution *Sacrosanctum Concilium*, the Council noted that “Pastors of souls must therefore realize that, when the liturgy is celebrated, something more is required than the mere observation of the laws governing valid and licit celebration; it is their duty also to

¹⁰⁸ Cf. RICHARD P. MCBRIEN, *Catholicism*, pp. 630-632, for a treatment of the origin and nature of conciliarism.

ensure that the faithful take part fully aware of what they are doing, actively engaged in the rite, and enriched by its effects.”¹⁰⁹ Another example of this notion of “perfection of the sign”, one particularly pertinent to our question, can be found in the restored rite of concelebration, because “in a special way concelebration shows the unity of the priesthood.”¹¹⁰

Why is concelebration such an important example? As we have seen with Tillard (and already noted before), there is an intimate link between the mystery of the Eucharist and the mystery of the Church. As concelebration shows the unity of the *potestas* of the priesthood for sanctification, there can be a parallel of unity in *potestas* for governance and authority. At a concelebration, it is still truly Christ who is presiding the liturgy, not in the one minister, but in the many. The same can be said for governance: it is still truly Christ who governs his universal Church, through the one episcopacy, either through a single minister (the Pope), or through a “concelebration” of authority (the Pope acting explicitly in conjunction with other bishops, in a Synod, in a Council, or scattered throughout the world).

In a concelebration, one cannot say that only the main presider is the agent of the sacrament—all are. In a concelebration, one cannot say that the mass is “more valid” because more priests are present, or “less valid” because fewer priests (or perhaps only one) is/are present, because it is always Christ who is presiding and is present in his ministers. A clear parallel can be drawn between this and the

¹⁰⁹ VATICAN II, *Sacrosanctum Concilium*, no. 11.

¹¹⁰ PAUL VI, *General Instruction on the Roman Missal*, no. 153.

governance of the Church. Because the whole Church is sacramental, as we have seen, every act of that Church, and not only the seven ritual sacraments, is a form of *leitourgia*. And this includes governance, whose originating ministers are the bishops united in a common episcopacy, with a “main celebrant” leading them. As with concelebration, one cannot say that an act of authority is “more valid” because more bishops participate in it, nor can one say that an act of authority is “less valid” because fewer bishops (or perhaps only the one who presides the others) is/are present, because it is always Christ who is presiding and is present in his ministers.

This does not mean that there is no real difference between celebrations by one minister versus celebrations by several. Again, it is a question of the “perfection of the sign”, and the unity of the ministers concerned. As Vatican II has stated, this perfection—which goes beyond mere validity and liceity—is desirable. Of course, it is not practical to always have concelebrated masses: one must decide when the fuller manifestation of the sign is necessary, versus a lesser manifestation of the sign due to necessity or expediency. The same applies to the “concelebration of authority”. It is not always practical to have the bishops assembled in an ecumenical council! What is needed are criteria for discernment, to help the “presider of the celebration of governance” (i.e. the Pope) decide when such “concelebration” is necessary, and to what degree. Agreement on such criteria would do nothing to diminish the objective validity of pontifical acts of governance performed on the Pope’s own initiative, but would help eliminate uncertainty as to when such extraordinary acts of governance might arrive. And it was such an uncertainty that sparked the initial comment given to Fr. Tillard those many years

ago, and which inspired this paper.

2.4 Conclusion: applications of the sacramental principle as it regards authority

A further investigation of this notion of “concelebration of authority” is needed, especially since (at first glance) it can serve to solve certain other problems. For example, there has been an ongoing debate as to the origin of the authority of the Synod of Bishops as instituted by Paul VI in 1965.¹¹¹ On the one hand, Paul VI wrote that the Synod was established “on our own initiative and by our apostolic authority, we erect...a body for the universal Church, directly and immediately subject to our authority,”¹¹² so it would seem the source of its authority is papal. On the other hand, the Council, in the decree *Christus Dominus*, noted that “since it shall be acting in the name of the entire Catholic episcopate, it will at the same time show that all the bishops in hierarchical communion partake of the solicitude for the universal Church,”¹¹³ so it would seem the source of its authority is the college of bishops. Examining the question from the point of view of “concelebration of authority” and “perfection of the sign” shows how false this debate really is. The Pope acting alone is at one end of the scale of this “concelebration” and “perfection”, while the Pope acting in perfect union with all

¹¹¹ Cf. Moto Proprio “Apostolica Sollicitudo”, Paul VI, Sept 15, 1965, found in ABBOT, pp 720-724.

¹¹² *Ibid.*, p. 721.

¹¹³ VATICAN II, *Christus Dominus*, no. 5.

the bishops of the world, is at the other end of the scale. The Synod is simply an intermediate body, exercising its own “concelebration of authority” and showing its own degree of “perfection of the sign” according to its size and composition (which includes representativeness).

A parallel analysis can be applied to the acts of governance of episcopal conferences. The 1985 Extraordinary Synod called for a “fuller and more profound study of the theological and consequently the juridical status of episcopal conferences, and above all of the issue of their doctrinal authority.”¹¹⁴ The decision that, for declarations of a conference to be truly from the conference itself, they required either unanimity or the *recognitio* of the Apostolic See¹¹⁵, was met with some concern: was this an attempt to restrict episcopal conferences? Ecclesiastical politics aside, the application of the *recognitio* does have the advantage of turning the episcopal conference into a body which not only represents itself but, because it is “concelebrating authority” with the Pope, it becomes a true intermediate body of bishops, like the Synod of bishops—once again, with the perfection of the sign depending on the size and composition of the conference, but nevertheless a very real collegial dimension.¹¹⁶

¹¹⁴ JOHN PAUL II, *Apostolos Suos*, no. 7 [p. 153 in Origins].

¹¹⁵ *Ibid.*, Article I of Section IV [p. 157 in Origins].

¹¹⁶ This conclusion entails a necessary choice to be made between the two theological views on collegiality as presented by ORSY (pp. 976-977), namely that bishops do share in collegial power even when not assembled in an ecumenical council. At this point in the development of the argument, such intermediate bodies are necessarily presided by the Pope, although later on we will see how the application of a broader “principle of primacy” might allow an

Of course, not every assembly of bishops has the Pope (or his legate) at its head. Provincial councils, for example, are presided over by the Metropolitan of the ecclesiastical province¹¹⁷, while Oriental synods are presided over by the appropriate Patriarch or Major Archbishop.¹¹⁸ The extent to which such groupings are truly intermediate bodies of governance will depend, in part, on a theological evaluation of these groupings as “particular Churches”, a work which has already begun by Marie-Hélène Lavianne in her doctoral thesis and in a series of articles published in 1998 in *Mélanges de science religieuse*¹¹⁹. This theological evaluation will also depend on an evaluation of what constitutes primacy. Again, a reflection on the “perfection of the sign” may be in order. If the Twelve constitute the *typos* of the college of bishops, and Peter the *prototypos* within the Twelve, perhaps a part of the “perfection of the sign” of the body considered is the extent to which any primate or patriarch approaches the “perfection of the sign” that the Pope, united with the College of Bishops, represents as the vicar of Peter. This view, while needing more development, could, because it implies a “grading” among the

extension of the collegial principle to other bodies not presided by the Pope, but by another primate.

¹¹⁷ CODE OF CANON LAW, can. 442 §2.

¹¹⁸ CODE OF CANONS OF THE EASTERN CHURCHES, can. 103.

¹¹⁹ Cf. MARIE-HÉLÈNE LAVIANNE, “Églises particulières et Églises locales au concile Vatican II”, *Mélanges de science religieuse*, July-September, 1998, pp. 85-104; and “Églises particulières et Églises locales : réflexions pour aujourd’hui”, *Mélanges de science religieuse*, October-December, 1998, pp. 37-50.

various forms of primacy, clarify certain historical debates within the Church.¹²⁰

¹²⁰ That primacy can exist in “grades” has been demonstrated quite ably by Fr. Alexander SCHMEMANN, in a paper written in 1963, and available in the the collection “The Primacy of Peter”, ed. Fr. MEYENDORFF. This position also supports one of the two positions already outlined by ORSY (p. 977), namely the one that collegial power exists in assemblies of bishops that are not ecumenical councils, although only where a legitimate primacy exists. What constitutes a legitimate primacy is a theological topic beyond the scope of this thesis, however.

CHAPTER THREE
JURISDICTION AND THE MISSION OF THE CHURCH

In the very first section of its *Dogmatic Constitution on the Church*, the Second Vatican Council declares that there is an intimate connection between the sacramentality of the Church and her mission. The Council declared its intention as follows: “Since the Church is in Christ like a sacrament or as a sign and instrument both of a very closely knit union with God and of the unity of the whole human race, it desires now to unfold more fully to the faithful of the Church and to the whole world its own inner nature and universal mission.”¹²¹ For this reason, a consideration of the mission of the Church is necessary as a starting point for examining the *praxis* of primacy and jurisdiction and authority in a new light. A certain connection (and confusion) between mission and jurisdiction can be seen from even over a century ago. As the first chapters of *Pastor Aeternus* were being prepared for consideration by the First Vatican Council, Cardinal Schwarzenberg made the following comments regarding a preliminary report of May 9, 1870: “Dans le rapport qu’on nous a présenté, les évêques sont dits successeurs des apôtres mais en un certain sens seulement, non *simpliciter*; et toute leur mission est restreinte à un diocèse particulier qu’ils reçoivent du Souverain Pontife. Cela est étranger à la Tradition apostolique.”¹²² These strong words received a precise reply

¹²¹ VATICAN II, *Lumen Gentium*, no. 1.

¹²² J.-P. TORRELL, *op. cit.*, p. 136.

the next day from Cardinal Paul Cullen of Dublin. “Le cardinal Cullen mettait les choses au point en précisant que les évêques, s’ils sont successeurs des apôtres, n’ont pourtant pas hérité de la plénitude de leur pouvoir sur l’Église universelle et que leur juridiction est bien limitée au territoire de leur diocèse.”¹²³ Let us not allow the shift in vocabulary here to slip past us! Schwarzenberg, in his intervention, spoke of the *mission* of the bishops, while Cullen, in his reply, spoke of their *jurisdiction*, and did so *without making the distinction between the two concepts*. Curiously, neither does Jean-Pierre Torrell, the author of the volume which reports this exchange, nor does he report any other intervention which might have drawn attention to the distinction. Perhaps the language of jurisdiction was so strong in those times that the language of mission was simply swallowed up, as we see in this statement by Cardinal Cullen: “Les apôtres certes, durant leur vie, avaient le pouvoir de prêcher l’Évangile dans le monde entier, mais à leur mort ce pouvoir extraordinaire cessa.”¹²⁴ How curious it is to see the mission of the apostles described in terms of “power”! For this thesis, we shall not follow in these particular footsteps.

In order, then, to avoid any possible confusion between the notions of mission and jurisdiction, we shall begin by examining the notion of mission itself, as applied to the Church in general, and to her pastors, the bishops, in particular. As a methodology, we will begin by following the lead of Vatican II, and examine

¹²³ *Ibid.*, p. 137.

¹²⁴ *Ibid.*, p. 110.

what principles it set forth for understanding the mission of the Church understood as *raison d'être*. This will be followed by a review of mission literature, which has been selected on the basis of its commentary on mission as *raison d'être*. Lastly, we will examine the historical record of the local bishops' participation in the universal mission of the Church.

3.1 The "charter" of the mission of the Church found in Vatican II

There are three key documents of Vatican II which touch upon the nature and mission of the Church in an explicative manner, rather than simply in passing.

The first of these documents is *Lumen Gentium*, already cited above, which went on to make the following succinct statement as to the nature of that mission: "The Church, equipped with the gifts of its Founder and faithfully guarding His precepts of charity, humility and self-sacrifice, receives the mission to proclaim and to spread among all peoples the Kingdom of Christ and of God and to be, on earth, the initial budding forth of that kingdom."¹²⁵

The next of these documents, interestingly enough, is *Apostolicam Actuositatem*, concerning the laity. It states that "the Church was founded for the purpose of spreading the kingdom of Christ throughout the earth for the glory of God the Father, to enable all men to share in His saving redemption, and that

¹²⁵ VATICAN II, *Lumen Gentium*, no. 5.

through them the whole world might enter into a relationship with Christ.”¹²⁶ It further expands on this mission with the statement that “the mission of the Church is not only to bring the message and grace of Christ to men but also to penetrate and perfect the temporal order with the spirit of the Gospel.”¹²⁷ Taken together, these statements actually go much farther than that of *Lumen Gentium*, in that they are not only statements of the nature of the Church vis à vis her mission, but even boldly declare the very *raison d’être* of the Church.

The last major references to the mission of the Church can be found in *Ad Gentes*, the Decree on the Mission Activity of the Church. One would think that this document would have the most important and interesting things to say on the subject of the mission of the Church, but in fact it is quite disappointing regarding our topic. The main difficulty lies in the fact that the document discusses primarily the *missions* of the Church, rather than her *mission* (a common problem throughout the literature, noted earlier). There are references to the nature of mission, but these are generally focussed on the nature of missionary activity itself, rather than on mission and its relationship to the nature of the Church. The Decree does note that “the pilgrim Church is missionary by her very nature, since it is from the mission of the Son and the mission of the Holy Spirit that she draws her origin, in accordance with the decree of God the Father.”¹²⁸ However, while this is an

¹²⁶ ID., *Apostolicam Actuositatem*, no. 2.

¹²⁷ *Ibid.*, no. 5.

¹²⁸ ID., *Ad Gentes*, no. 2.

interesting exposition of the Trinitarian origin of mission, it is much too broad for us to use as a concrete appraisal of the mission and nature of the Church for the purpose of offering useful suggestions regarding papal primacy and jurisdiction.

The key principle of Vatican II regarding mission, therefore, has to do with the relationship between the Church and the Kingdom. In this context, the Kingdom means, not only the spreading of the Gospel and invitation to all to enter into a relationship with Christ, but also the renewal of all spheres of human life (i.e. the temporal order) according to Gospel principles. The latter function is especially entrusted to the laity because of their secular role¹²⁹, while the former function is seen as a more direct continuation of the particular mission of the apostles (and therefore a more “episcopal” function, particularly since the bishops are considered to be the successors of the apostles).¹³⁰

With regards to particular mission of the bishops and their the participation of the bishops in the mission of the Church, the Second Vatican Council did have its say on the question of the importance of the office of bishop, lending a welcome counter-weight to the arguments in favour of a limited episcopal role. The Council affirmed that “bishops govern the particular churches entrusted to them as the vicars and ambassadors of Christ...The pastoral office or the habitual and daily care of the sheep is entrusted to them completely. Nor are they to be regarded as vicars of the Roman Pontiff, for they exercise an authority which is proper to them, and

¹²⁹ ID., *Lumen Gentium*, no. 31.

¹³⁰ ID., *Ad Gentes*, no. 5.

are quite correctly called “prelates”, heads of the people whom they govern.”¹³¹

Beyond this, however, the Council also declared that this mission given to the bishops of tending the flock of Christ is not simply limited to the particular (also called local) churches of which they are the particular pastors. The Dogmatic Constitution on the Church mentions responsibilities of the bishops which are universal. It begins with the affirmation that “each of them, as a member of the episcopal college and a legitimate successor of the apostles, is obliged by Christ’s decree and command to be solicitous for the whole Church.”¹³² Simply affirming the duty of such a *sollicitudo universalis* is not enough, however, so the Constitution goes on to give some practical examples of what is expected of such a ministry.

It is the duty of all bishops to promote and to safeguard the unity of faith and the discipline common to the whole Church, to instruct the faithful in love for the whole Mystical Body of Christ, especially for its poor and sorrowing members and for those who are suffering persecution for justice’ sake, and finally to foster every activity which is common to the whole Church, especially efforts to spread the faith and make light of full truth dawn on all men.¹³³

¹³¹ ID., *Lumen Gentium*, no. 27.

¹³² *Ibid.*, no. 23.

¹³³ *Ibid.*, no. 23. The collection by Abbott also contains the following commentary note: “An important consequence of this universal pastoral solicitude is that all the bishops must have a concern for the missions, a point repeated in the Decree on the Church’s Missionary Activity, Art. 6. Bishops are also obliged, in cases on need, to give spiritual and material assistance to each other’s churches.”

The task of proclaiming the gospel everywhere on earth devolves on the body of pastors, to all of whom in common Christ gave His command...With all their energy, therefore, they must supply to the missions both workers for the harvest and also spiritual and material aid, both directly and on their own account, as well as by arousing the ardent cooperation of the faithful.¹³⁴

In a universal fellowship of charity, bishops should gladly extend their fraternal aid to other churches, especially to neighboring and more needy dioceses, in accordance with the venerable example of antiquity.¹³⁵

As successors of the apostles, bishops receive from Him the mission to teach all nations and to preach the gospel to every creature, so that all men may attain to salvation by faith, baptism, and the fulfillment of the commandments.¹³⁶

The Decree on the Bishops' Pastoral Office in the Church, *Christus Dominus*, also contains explicit affirmations of this necessary *sollicitudo universalis*. In number 3 of the same document, the Decree makes reference to the "sharing in solicitude for all the churches"¹³⁷ of all bishops. The Decree is even more explicit further on:

As lawful successors of the apostles and as members of the episcopal college, bishops should always realize that they are linked one to the other, and should show concern for all the churches. For by divine institution and the requirement of their apostolic office, each one in concert with his fellow

¹³⁴ *Ibid.*, no. 23.

¹³⁵ *Ibid.*, no. 23.

¹³⁶ *Ibid.*, no. 24.

¹³⁷ *ID.*, *Christus Dominus*, no. 3.

bishops is responsible for the Church.¹³⁸

The decree goes on to give practical examples of how this concern can be concretely manifested:

They should be especially concerned about those parts of the world where the Word of God has not yet been proclaimed or where, chiefly because of the small number of priests, the faithful are in danger of departing from the precepts of the Christian life, and even of losing the faith itself.

Let bishops, therefore, make every effort to have the faithful actively support and promote works of evangelization and the apostolate. Let them strive, moreover, to see to it that suitable sacred ministers as well as assistants, both religious and lay, are prepared for the missions and other areas suffering from a lack of clergy. As far as possible, they should also arrange for some of their own priests to go to such missions or dioceses to exercise the sacred ministry permanently or at least for a set period of time.

Moreover, in administering ecclesiastical assets, bishops should think not only of the needs of their own dioceses, but of other ones as well, for these too are part of the one Church of Christ. Finally, in proportion to their means, bishops should give attention to relieving the disasters which afflict other diocese and regions.

7. Above all, let them unite themselves in brotherly affection with those bishops who, for the sake of Christ, are harassed by false accusations and by restrictions, detained in prisons, or prevented from exercising their ministry. They should take an active fraternal interest in them so that their sufferings may be assuaged and alleviated through

¹³⁸ *Ibid.*, no. 6. The collection by Abbott also contains the following commentary note: "a bishop's responsibility is never limited to the diocese entrusted to him. As part of the episcopal college, his concern must run with the world-wide boundaries of the Church."

the prayers and good works of their confreres.¹³⁹

Despite the fact that it may not be immediately obvious to the popular Catholic understanding of the role of the bishop, then, it is clear that, in truth, even the local bishop has a personal responsibility for the furthering of the mission of the Church even beyond the boundaries of his own local church.

3.2 Recent missio-ecclesiological literature

Given the renewed vision of the universal mission of the Church as expressive of her very nature, and the role of the local bishop in that mission, it would seem natural to be able to find a plethora of information linking these key subjects. In fact, this is not the case! When one attempts to do research on the “mission of the church”, one quickly discovers that the vast majority of material available is actually on the *missions* of the Church, rather than on her *mission*. Vatican II declared that “the pilgrim Church is missionary by her very nature”,¹⁴⁰ that is to say, that there is an intimate link between the nature of the Church, her very mystery, and the task(s) which have been entrusted to her (and, by extension, her leaders). But texts devoted to the ecclesiological underpinnings of mission

¹³⁹ *Ibid.*, nos. 6 and 7. The collection by Abbott also contains the following commentary note: “Like St. Paul, each bishop should have a practical care for all the churches. The contemporary view of the Church’s wide mission must not obscure the help needed by the struggling churches of newly emerging nations, ancient lands of Asia and Africa, and areas like Latin America.”

¹⁴⁰ *ID.*, *Ad Gentes*, no. 2

seem to be few and far between. There is much discussion of the methods, components and paradigms of mission (especially their critique) and of the history of the missions; but there is precious little which addresses the mission of the church understood as its purpose, its *raison d'être*.

Despite this difficulty, the field is not entirely bereft of meaningful research. In the following section a certain number of recent works have been retained, and will be analysed in view of our goal of examining the mission of the bishop in light of the mission of the Church.

3.2.1 *Fr. Roger D. Haight, s.j.: The "Established" Church as Mission*

In his article "The 'Established' Church as Mission: the Relation of the Church to the Modern World", Fr. Roger Haight begins by coming straight out with the question: "What does it mean to say that the Church is a mission?"¹⁴¹ A canonist, Fr. Haight is eminently practical, and rephrases the question as follows: "What is the place or purpose of the church in relation to the world?"¹⁴² The last portion of this phrase – "in relation to the world" – is particularly important, because it will prevent more ephemeral discussions and keep our feet firmly planted on the ground.

¹⁴¹ ROGER D. HAIGHT, "The 'Established' Church as Mission: the Relation of the Church to the Modern World", found in JAMES W. PROVOST, ed., *The Church as Mission*, p. 4.

¹⁴² *Ibid.*, p. 4.

Fr. Haight expresses the important distinction between *mission* and *missions* as follows:

One should...draw a distinction between the basic idea of “mission” and the church’s missionary activity over the centuries. Missionary activity is one form, indeed the most obvious and prevalent way, in which the church’s turning toward and being for the world has manifested itself. But the sending of individuals or group to peoples geographically distant is not to be simply equated with the symbol “mission” even though it is the primary historical and concrete exemplification of the church’s nature as mission for the world. As a constitutive symbol, “mission” indicates that the church is by nature outward turned toward the world and history wherever it is.¹⁴³

The distinction Fr. Haight makes is important, in that it takes us away from a vision which is a mere “seeking of converts”. But if mission is more than that, what is that special extra? Fr. Haight addresses the question in these terms:

At first glance it may seem apparent that if the church has any unique competence it is to preach the gospel and to be the vehicle or agent for the spread of explicit faith in Jesus Christ. And conversely, the primary and direct task of the church is not to build up the temporal order or to help people gain material goods and influence...There has, however, been a marked shift in understanding the practice in this area.¹⁴⁴

In this respect, Fr. Haight is simply noting the double dimension of mission as already seen at Vatican II: evangelization, *and* renewal of the temporal order. It does beg the question, however: Does this mean that there is, in fact, more than one

¹⁴³ *Ibid.*, p. 12.

¹⁴⁴ *Ibid.*, p. 25.

mission? Fr. Haight contributes the following insight:

Any opposition between these two forms of activity, or exclusion of development work of concern from the mission of the church, rests on some kind of dualistic view of reality, a separation of the spiritual and religious from the physical and temporal order, of the supernatural from the natural, and so on.¹⁴⁵

One is now forced, however, to ask: What is the unifying element? According to Fr. Haight, evangelization and human development find their unity in being part of a greater reality called “humanization”. He writes:

There can be no separation between evangelization work and work for human development. Evangelization must be defined so as to include as an essential and constitutive component a concern for humanization because charity and active concern for the whole life in itself of other persons is integral to the truth to which the church witnesses. The result is that evangelization and work for human development are seen as equally essential dimensions of the one outward symbolic thrust of the church.¹⁴⁶

Fr. Haight by noting that “the idea of the mission of the church is far deeper than any concrete function, special activity or specific response to a particular situation. Rather the church is a mission in the sense that its *raison d’être* is to be the continuation of the *missio Dei* in history.”¹⁴⁷ There is much to be commended in his article, as well as much to be critiqued. Fr. Haight takes the stand – by no means universally shared – that human development is parallel in importance to

¹⁴⁵ *Ibid.*, p. 25.

¹⁴⁶ *Ibid.*, p. 26.

¹⁴⁷ *Ibid.*, p. 39.

evangelization, rather than a “holy by-product” of it. His view of humanization leads to a relativization of the essential importance of the Gospel, which he declares himself when he writes “it is by no means certain that all people have a vocation to be a Christian.”¹⁴⁸ Presumably we are all called to be human, however (it is, after all, simply an empirical fact), so evangelization then winds up serving “humanization”. Beyond these critiques, however, one must point out as well that, while Fr. Haight does address the “mission of the church”, he never addresses the mission of the local church versus that of the universal church. As such, his work cannot help us enter very far into a discussion of the role of the local bishop in the universal church.

3.2.2 *Bishop Kevin McNamara: Sacrament of Salvation*

Bishop Kevin McNamara of Kerry in Ireland has written a book entitled “Sacrament of Salvation: studies in the mystery of Christ and the Church”, and discusses the mission of the Church in a chapter entitled “‘Go make Disciples’: The basis of missionary activity.” In the very first paragraph Bishop McNamara makes the promising statement: “Church without mission...is a contradiction in terms...The Lord’s command to make disciples, therefore, to preach the Gospel to all nations, is not an extra obligation imposed on the Church by Christ; it is simply the making explicit of an inner exigency of the Church itself, a declaration of what in fact the

¹⁴⁸ *Ibid.*, p. 32.

Church is.”¹⁴⁹ This explicit linking of the mission of the Church with her nature is important study. The question is: What is that mission?

After a discussion of the Trinitarian origins of mission (which, in this writer’s opinion, is a bit abstract), Bishop McNamara addresses the connection between *mission* and *the missions*. He writes: “Up to now...we have been talking about the Church’s mission in general. What is the object or scope of that mission?...The mission of the Church is fulfilled...by that activity which makes her fully present among men and nations...Once again the profound connection between Church and mission is here apparent: the purpose of mission is purely and simply to develop the life of the Church.”¹⁵⁰ It should be immediately noted, however, that this statement, unfortunately, suffers from an internal reversal: while he begins by considering the *mission of the Church*, he in fact concludes by considering the *purpose of mission*. The Church goes from being efficient cause that is serving something greater than itself, to being a final cause which receives that service.

Despite this weakness, Bishop McNamara does address the idea of the Church as a servant of a grand design. In discussing the role of missions and missionary activity, he acknowledges that “our approach to the problem of the necessity of missions has been determined by the basic principle that it is God’s eternal plan to gather all mankind into the unity of a single, holy people. The

¹⁴⁹ KEVIN MCNAMARA, *Sacrament of Salvation*, p. 159.

¹⁵⁰ *Ibid.*, p. 162.

general mission of the Church is directed to realising that grand design.”¹⁵¹ This reality extends beyond the missions which are strictly *ad gentes*, however. Bishop McNamara writes:

Every form of activity by which men are brought under the influence of the Church is therefore included in mission. Three broad kinds of activity are mentioned by the decree: the evangelizing of pagan nations, pastoral activity among the faithful, and ecumenical activity among divided Christians. In these various ways the Church is being made fully present among men, the Body Of Christ is being built up.¹⁵²

Once again, however, it appears that the Church is not simply the beginning, but also the end, of the entire process of mission. This is finally addressed, however, in Bishop McNamara’s discussion of “The Church, Sacrament of Salvation”:

The Church has been set into the world as God’s instrument for the setting up of his eschatological rule in history, for the gradual extension of the Lordship of Christ over all creation.¹⁵³

From the preaching of the Gospel by the Church there follows liberation from sin, the development of order and harmony, the gradual salvation of cultures and the many gifts of the human spirit, the growing disclosure of the glory of God and Christ which is hidden in creation, the increasing humanisation of life under the light and grace of God’s Word.¹⁵⁴

¹⁵¹ *Ibid.*, p. 164.

¹⁵² *Ibid.*, p. 162.

¹⁵³ *Ibid.*, p. 167.

¹⁵⁴ *Ibid.*, p. 168.

The latter list is useful for a practical determination of criteria for evaluating the success of the mission efforts. A key question remains, however: what is the responsibility of the local bishop in all of this? Of the three areas of mission work (evangelization of “pagans”, pastoral work, ecumenism), is only pastoral work the responsibility of the local bishop? Or are all three? It is a shame that the author, a local bishop himself, does not address the question, especially since, while pastoral work can be conceivably “confined” to a local church, the other functions will usually take the local Church outside of itself.

3.2.3 *Jesse C. Fletcher: The Mission of the Church*

It may seem strange that, in a review of missio-ecclesiological writings, we would include an extract from an evangelical Protestant such as Jesse Fletcher. After all, their own ecclesiology generally has little use for bishops! While this is true, on the other hand they do tend to look upon “visible church” as referring to “local church”. As such, this work can hold promise for us.

Contrarily to the perspective of Bishop McNamara, Fletcher firmly declares that the church is a means, not an end: “The church is the result of what the theologians call the *missio dei*, the mission of God...But the church is not the end of mission. It is an instrument of God’s hands”.¹⁵⁵ In contrast to other texts, however, Fletcher does not immediately simplify things by quoting Matthew 28 and

¹⁵⁵ JESSE C. FLETCHER, *The Mission of the Church*, p. 17.

reducing mission to evangelism. Instead, he writes, “For many people the mission of the church begins with the Great Commission. This is like saying a great highway begins at an important junction somewhere along the way. The mission of the church begins with the nature of God.”¹⁵⁶ Fletcher then goes on to provide a thoroughly Trinitarian and Christological view of the origins of mission.

Regarding the place of the church in the mission, Fletcher distinguishes himself by not beginning with the *church*, but the *churches*. “Because they are the result of God’s mission in the world and because they are the result of Christ’s sacrifice and triumphant victory over death, churches can be seen as the end of the process...The truth, however, is just the opposite. The church has become God’s instrument for His mission.”¹⁵⁷ Admittedly, there is some confusion in terminology, as Fletcher shifts from the plural “churches” to the singular “church”. Unlike the “Catholic bias” found in the previous articles, however, which would tend to read “universal (institutional) church” in the place of the singular “church”, Fletcher is really just using the singular to express a feature which each local church must possess as part of the universal. Fletcher confirms this when he later writes, “If a local church allows missions to be one part or compartment of its life instead of galvanizing its whole, it misses the point. It is simply tipping its hat to the task.”¹⁵⁸ The mission may be given universally to the church, but that does not make it the

¹⁵⁶ *Ibid.*, p. 17.

¹⁵⁷ *Ibid.*, pp. 23; 24.

¹⁵⁸ *Ibid.*, p. 25.

property of the “church universal” to the detriment of the local church.

As mentioned earlier, Fletcher does not enter into a discussion of the role of bishops in the mission of the Church. By placing the discussion of mission in the context of local church communities, however, he does contribute something (even if only unwittingly) to the Catholic discussion, if only because, in the Catholic context, it is the local bishops who head those local churches.

3.2.4 *David J. Bosch: Transforming Mission*

David Bosch’s “Transforming Mission: Paradigm Shifts in Theology of Mission” is a central work in the study of missiology, and so it may seem natural that it is included here. In fact, however, I had some initial hesitations, because the work is really more about *theology of missions* than about *theology of the mission of the Church*. His ecclesiology is, in fact, quite fluid: at times it seems that the nature of mission flows from the nature of the Church, and at other times it seems that the nature of the Church flows from the nature of the mission! Bosch himself admits this back-and-forth movement, when in his conclusion he writes, “It remains extraordinarily difficult to determine what mission is. This entire study has evolved from the assumption that the definition of mission is a continual process of sifting, testing, reformulating, and discarding.”¹⁵⁹ Bosch, therefore, refuses to provide a neat and pat definition of mission. In fact, his initial “working definition”, found in

¹⁵⁹ DAVID J. BOSCH, *Transforming Mission*, p. 511.

his introduction, covers three full pages of text!¹⁶⁰ Nevertheless, his work remains valuable for us, in particular because of his chapter entitled “Elements of an emerging Ecumenical Missionary Paradigm”, in which he points to certain factors contributing to a new emerging vision of the mission of the Church. Beyond these factors, however, Bosch assists us by providing an outsider’s view of the evolution of the mission theology of the Roman Catholic church – a view which takes into account, better than some Catholic authors do, of the local dimension of that mission.

Bosch’s evaluation of the role of the Second Vatican Council’s place in the evolution of Catholic mission theology is as follows: “For Catholics, Vatican II marked the occasion of mission ceasing to be a prerogative of the pope (who might delegate that responsibility to missionary orders and congregations) and becoming an intrinsic dimension of the church everywhere.”¹⁶¹ For Bosch (and it is here that our own particular interest lies) this development found expression in a renewed vitality of the mission of the local church. “The church-in-mission is, primarily, the local church everywhere in the world. This perspective...was for all practical purposes ignored during much of Christian history.”¹⁶² The early 20th century saw the beginning of a shift in the thinking of the Protestant churches on this score, however, with a series of important conferences pointing the way. “Mission could

¹⁶⁰ Cf. *Ibid.*, pp. 8-11.

¹⁶¹ *Ibid.*, p. 493.

¹⁶² *Ibid.*, p. 378.

no longer be viewed as one-way traffic, from the West to the Third World; every church, everywhere, was understood to be in a state of mission.”¹⁶³ But this shift was not only found in the Protestant milieu: in fact, “in Catholicism developments have been even more marked and dramatic.”¹⁶⁴ In what way? “The fundamentally innovative feature of the new development was the discovery that the universal church actually finds its true existence in the local churches.”¹⁶⁵ This has provided a new impetus, and a new focus, for mission activity.

The rediscovery of the local church as the primary agent of mission has led to a fundamentally new interpretation of the purpose and role of mission agencies...In the midst of these new circumstances and relationships there is still room for and need of individual missionaries, but only insofar as all recognize that their task is one that pertains to the whole church and insofar as missionaries appreciate that they are sent as ambassadors of one local church to another local church (where such a local church already exists), as witnesses of solidarity and partnership, and as expressions of mutual encounter, exchange, and enrichment.¹⁶⁶

The contents of mission are never really spelled out by Bosch in any sort of a definitive manner, but this is in keeping with his objective of simply pointing out the various elements which are contributing to an emerging missionary paradigm. He does clearly endorse the theology of “church-as-sacrament” as part of this

¹⁶³ *Ibid.*, p. 379.

¹⁶⁴ *Ibid.*, p. 379.

¹⁶⁵ *Ibid.*, p. 380.

¹⁶⁶ *Ibid.*, p. 380.

emerging vision, without, however, looking into questions of church leadership (nor, it should be added, the sacramentality of the local bishop). Despite these shortcomings as far as our preoccupations are concerned, Bosch's work remains a distinctive achievement in its own right, and in its highlighting of the evolution of the Catholic missionary paradigm does contribute to our ecclesiological discussion.

3.3 Historical examples of the *munus ad extra* of the local bishop

How does this review of the theological understanding of the mission of the Church (understood as *raison d'être*) help us? As we have seen, the Second Vatican Council taught that the local bishop has a responsibility for the mission of the Church which goes beyond the boundaries of his diocese. Despite this mention, however, it is quite surprising to find that very little, if indeed anything, has been written to develop further how bishops might put this conciliar wish into practice. In other words, the mere affirmation of such a *sollicitudo universalis* is not enough, for otherwise the Council is not exempt from the charge that its passages on the universal *munus* are innovations. The student of history (and of experiential ecclesiology, which looks at ecclesiology from how it has been lived, not theorized) has a service to offer here, by looking to the past to find examples of how this *sollicitudo universalis* has been lived. How have individual bishops demonstrated their care for particular churches other than their own? How have they, in decision-making for their own dioceses, affected the development of the Church universal? And since, as the canonical principle states, *potestas* follows *munus*, how have

individual bishops exercised an authority which binds the Church universal? For the sake of understanding and perfecting our practice of this *sollicitudo universalis* today, let us turn to the historical record.

3.3.1 *The writing of letters and treatises*

One of the earliest examples of the exercise of the *munus ad extra* of the local bishop was through the writing of letters destined for churches outside of the ones within which they exercised the ministry of *episcopè*. The tradition of writing letters undoubtedly build upon the apostolic practice of letter-writing, some examples of which are contained in the canon of scripture: the Pauline corpus (excluding the pastorals and the letter to Philemon), for example, are all letters destined to Churches. And while it is arguable that Timothy and Titus were not “bishops” in the proper sense, that early Tradition saw them as such is undeniable¹⁶⁷, showing that even these letters could be seen as a basis for a tradition of episcopal letter writing. The third example, those of the “universal” letters of James, Peter, John, and Jude, bring to three the types of letters written in those times: (1) letters written to Churches. (2) letters written to the leaders of communities, (3) and “open letters” whose audience, it would seem, was the Church universal (or a sub-section of it, as it seems the epistle to the Hebrews may have been). Not all letters written made it into the canon of scripture, however,

¹⁶⁷ EUSEBIUS writes of these men as having been bishops. See *Ecclesiastical History*, book 3, part 4.

such as a “chronologically first” letter to the Corinthians which Paul refers to in the “first” Epistle to the Corinthians (see 1 Cor 5:9-13), or the letter to the Laodiceans, to which he refers to in Colossians 4:16. These references show that the practise of directing letters by apostles to Churches was certainly more prevalent than simply what the record of scripture itself contains.

The practise of letter-writing continued in the early Church. We see the practise in the sub-apostolic period. The first historical example which we have retained would be the letter of Clement to the Corinthians, but since that letter has been used by some to justify the Catholic dogma of papal primacy of jurisdiction, and this paper does not wish to mix up discussions of papal primacy and ordinary episcopal *munus ad extra*, I will not develop this further here. The next real example would be the letters written by Ignatius of Antioch, as he journeyed to his martyrdom in Rome. Of these letters, six are of type 1, above (the letters to the Ephesians, Magnesians, Trallians, Romans, Philadelphians, Smyrnaeans), and one is of type 2, above (the letter to Polycarp). With each of these letters Ignatius is, in a sense, “interfering” in the local affairs of the Churches concerned, offering teaching and exhortation to a flock other than that of Antioch. Polycarp undertook this kind of ministry as well, writing at least one letter, that to the Philippians.

Over time, the practise of writing letters to Churches seemed to die down, though we do nevertheless have a voluminous correspondence between bishops. St. Augustine, who wrote few if any letters to Churches, nevertheless had multiple exchanges with other bishops: letter 22 to Aurelius, letter 29 to Alypius, letters 159

and 164 to Evodius, letter 212 to Quintilianus, etc.¹⁶⁸

Of the type 3 letters, we have few examples in early Church history. This does not mean that the practise did not exist, however. Even today, the bishop of Rome continues to write letters with a universal destination, the so-called “encyclical” letters with which we are so familiar. And the writing of such letters is not restricted to the bishop of Rome: in the East, Patriarchs and Metropolitans regularly write such letters, typically around the time of special feasts, such as the Pascha 1999 letter of Metropolitan Theodosius of the Orthodox Church of America¹⁶⁹. Such letters are also written when the churches are facing particular circumstances. The Ecumenical Patriarch first began to involve the Orthodox Church in the ecumenical movement in a letter written in 1920¹⁷⁰, which remarkably was not restricted to the orthodox faithful, but was addressed to all Christians.

¹⁶⁸ All examples and numbering found in PHILIP SCHAFF, *Nicene and Post-Nicene Fathers*, first series, volume I.

¹⁶⁹ THEODOSIUS, "Today we are called to acquire the generosity of our Lord who desires us to seek and draw others into the dawn of the new and never ending day of glory.", April 11, 1999, available from the web site of the Orthodox Church of America, « www.oca.org ».

¹⁷⁰ I have been unable to find a copy of this Encyclical, but PETER BOUTENEFF refers to it in his article « Les Orthodoxes et le Conseil Oecuménique ». He notes: “En 1920, bien avant la fondation du Conseil oecuménique des Églises (COE), le patriarcat oecuménique adressait une encyclique « A toutes les Églises du Christ où qu’elles soient dans le monde ». C’était un appel que le premier des patriarchats de l’Église orthodoxe d’Orient lançait à toutes les Églises chrétiennes, les invitant à surmonter la méfiance et l’amertume et à rechercher ensemble la nature de la communion fraternelle qui existe entre elles malgré les différences doctrinales.”

3.3.2 *The identification and denunciation of heresy and schism*

Within his own local Church the bishop possesses a theological function which J.-M.-R. Tillard refers to as “memory”: his role is to preserve the heritage of faith received from the apostles.¹⁷¹ This function is not only exercised in his teaching capacity, however: it also requires a responsibility to identify and correct false teaching, and, when that teaching becomes pernicious, to denounce it. Heresy has, however, historically tended to cross the borders of a local church: St. Jerome famously remarked that, at one point, “the whole world groaned, and was astonished to find itself Arian”¹⁷², referring to the heresy of Arius, begun in Alexandria, but spread throughout the Christian world. Any action of denunciation of heresy, then, has not only its local dimension, but a universal one.

A famous example of this manifestation of the *sollicitudo universalis* of the local bishop would be the work St. Irenaeus of Lyons, *Adversus Haereses*. In this multi-volume work, he outlines and critiques the heresies prevalent both in his day and before his time. Given its early composition (late 2nd century), the fact that it is so voluminous is remarkable. It is reasonable to suppose that one of its uses could have been as a “judge’s aid” for local bishops, so that they might quickly identify new and strange teaching, and act quickly to find its root errors and correct matters accordingly. Another famous example of this *sollicitudo universalis* is in

¹⁷¹ J.-M.-R. TILLARD, *L’Église locale*, p. 179.

¹⁷² ST. JEROME, *Dialogue against the Luciferians*, no. 19, contained in NICENE AND POST-NICENE FATHERS, second series, volume 6, p. 329.

the reaction of the patristic to the teaching proposed by Pelagius. Apart from the clear denunciations by St. Augustine¹⁷³ (who denounced Pelagianism, not only for the sake of his local Church, but for the church universal), we have the reactions of synods, which after investigating the matter wrote letters to other bishops outlining their reaction to the heresy (once it had been identified as such).¹⁷⁴

3.3.3 *Ecclesiastical punishments*

As already mentioned in the previous section, one very important element of the ministry of the local bishop has been the responsibility to protect the local community from negative spiritual and doctrinal influences, but as well, to assist the faithful to avoid spiritual and moral pitfalls. The most extreme tool in the bishops' arsenal for this role is the penalty of excommunication. Theologians who promote the ecclesiology of communion tend to build their presentation around an ecclesiology of the Eucharist, with the bishop at the centre as the prototypical celebrant of this Eucharist: indeed, it is wondered by some if presbyters were ever, in the early church, ordinary ministers of this sacrament, as they are today. J.-M.-R. Tillard writes: "On ne saurait douter au moins du caractère ancien de cette présidence de la synaxe par l'évêque seul (lorsque la figure de celui-ci commence

¹⁷³ ST. AUGUSTINE, *passim.*, his anti-Pelagian works contained in NICENE AND POST-NICENE FATHERS, first series, volume 5.

¹⁷⁴ See this history of opposition to Pelagianism, described in MCKENNA, S. J., "Pelagius and Pelagianism", *New Catholic Encyclopedia*, McGraw-Hill, New York, 1967, pp. 58-60.

à se préciser).”¹⁷⁵ This capacity of presiding, however, also naturally included a capacity to decide who was able to partake of this Eucharist. For the non-baptized, we see the early ritual of the Church containing a “dismissal of the catechumens”, as they were not yet sharers in the priesthood of Christ and so could not be present after the liturgy of the Word¹⁷⁶ (a dismissal which is still contained in the Rite of Christian Initiation of Adults).¹⁷⁷ For the already baptized, however, exclusion from the Eucharistic celebration (a participation which was normally their right) was a serious punishment: they were “ex-communicated” i.e. outside the communion of the Church which found its plenitude in the celebration of the Eucharist, a celebration presided by the bishop.

The earliest example we have of an excommunication, i.e. total exclusion from the community, is found in the first letter of St. Paul to the Corinthians, regarding a case of incest in Corinth. St. Paul invokes his own apostolic authority in requiring that a certain individual be excluded from the community. “A man who does a thing like that ought to have been expelled from the community. Though I am far away in body, I am with you in spirit, and have already condemned the man who did this thing as if I were actually present.”¹⁷⁸ The Jerome Biblical Commentary notes: “Paul in Ephesus has already pronounced judgement on the

¹⁷⁵ J.-M.-R. TILLARD, *Église d'Églises*, p. 237.

¹⁷⁶ WILLIAM J. BAUSCH, *A New Look at the Sacraments*, p. 53.

¹⁷⁷ RITE OF CHRISTIAN INITIATION OF ADULTS, no. 67.

¹⁷⁸ 1 Cor 5: 2b-3; quote taken from the Jerusalem Bible.

guilty man. With full apostolic authority he now commands his decree of excommunication to be promulgated to the assembled community.”¹⁷⁹ It is hard to say to what extent this is an excommunication in the modern juridical sense of the word, however, as it relates in this case to a moral question. There are certain moral questions which, even today, would not only exclude one from Eucharistic communion, but also carry the penalty of excommunication (e.g. procuring an abortion¹⁸⁰). But there are many others which “merely” exclude from Eucharistic communion (e.g. the case of the divorced and remarried Catholic, as recently reaffirmed as excluded from Eucharistic communion as 1981¹⁸¹). Such persons are not excommunicated in the modern juridical sense of the term, although were we in an apostolic context, with Paul as our leader, they probably would be, in practical terms, considered as such. Of course, the penalty for heresy, apostasy, or schism also carries formal excommunication.¹⁸²

Given that the authority to exclude from Eucharistic communion arises from the place of the bishop as proto-president of the Eucharist, it could be argued that this is strictly a local matter, and so has no place in a discussion of the *sollicitudo universalis*. This argument is false, because the communion of bishops with each other gives rise to a situation in which the authority of one bishop binds all the

¹⁷⁹ RAYMOND BROWN, ed., *Jerome Biblical Commentary*, p. 261, New Testament section.

¹⁸⁰ CODE OF CANON LAW, canon 1398.

¹⁸¹ JOHN PAUL II, *Familiaris Consortio*, no. 84.

¹⁸² CODE OF CANON LAW, canon 1364 paragraph 1.

bishops. The simple fact is that people are mobile, and so the question arose: How was an excommunicated person to be considered once he or she moves to another local church? Could the bishop of that church admit the person to Eucharistic communion? The First Council of Nicea had a canon on this very subject. Canon 5 read: "In regard to those who have been excommunicated, whether they be of the clerical or of the lay estate, the sentence of the bishops of each province is to remain in force, in accord with the canon which says very plainly: Those who have been excommunicated by some are not to be re-admitted by others."¹⁸³ Which previous canon is being referred to here is unclear, but it demonstrates that, even at this early time, the Council was merely backing up a tradition already in existence.¹⁸⁴

The existence of this tradition means, then, that the authority to excommunicate must be considered as one which binds the whole church, and is therefore part of the *sollicitudo universalis* of the local bishop. Of course, there is the problem that a local bishop is neither impeccable nor infallible, and could abuse this authority, whether out of error or of malice. This gave rise, quite naturally, to a right of appeal, the historical evidence for which we will see further below.

The recognition of the right of a bishop to order penance of some kind eventually extended even to those outside their local Church. A classic example is

¹⁸³ WILLIAM JURGENS, *Faith of the Early Fathers*, vol 1, no. 651k.

¹⁸⁴ The 53rd canon of Elvira and the 16th canon of Arles, both ante-Nicene, contain similar legislation.

the case of St. Ambrose and the Emperor Theodosius. The Emperor had committed a massacre in Thessalonica in 390 A.D. Certainly, the Emperor was outside the jurisdiction of the bishop of Milan, even if only considering his place of residence. But Ambrose, by refusing to visit the Emperor when he came by, and by writing the Emperor a letter explicitly stating that the reason was because of the massacre¹⁸⁵, managed to effectively punish the Emperor, and justly. In essence, Ambrose declared (and I am paraphrasing) “you are not in communion with me, and I will not offer the sacrifice when you come visiting”. But in doing so, by virtue of the principle that a person excommunicated somewhere is excommunicated everywhere, that person is also punished everywhere. Ambrose “successfully ordered the Emperor Theodosius to do public penance after his massacre”.¹⁸⁶

3.3.4 *Authority within synods: vote and veto*

While it is true that each local bishop, as presider of his local Church, was principally responsible for that church, the fact that the Church universal could be conceived as a communion of churches created a situation in which some sort of governance in common was required. As seen in the case of excommunications and reinstitutions (above), the authority of a local bishop was such that it could bind the

¹⁸⁵ NICENE AND POST-NICENE FATHERS, second series, vol X, *Ambrose: Select Works and Letters*, letter 51 of Ambrose.

¹⁸⁶ WILLIAM JURGENS, *Faith of the Early Fathers*, vol 2, p. 146.

church universal, as a consequence of collegiality. Such a collegiality requires its own organ to function effectively, however. The earliest examples manifestations of collegiality (apart from the so-called Apostolic Council of Jerusalem, described in the Acts of the Apostles¹⁸⁷) would have been visits from one bishop to another, to work out solutions to common problems. Polycarp visited Anicetus in the 2nd century for exactly this purpose.¹⁸⁸ But these private meetings alone are not enough, and so “the conciliar unity of the episcopacy is also manifest in a very tangible manner when bishops gather together in a synod, either regional or general...Having as its historical model the Apostolic Council of Jerusalem, every council of bishops provides a valuable opportunity for the members of the synod to bear witness not only to their own faith but the faith of the local Church, and to apply that faith to specific challenges which face the regional church. The regular meeting of bishops of a particular region or province is a practise which is deeply reflective of the nature of the episcopacy.”¹⁸⁹

Early church canons provide us with some sense of the procedure of these meetings. It is difficult to say how “regulated” these meetings were initially, in terms of rules of procedure, secretaries, minutes of meeting, etc. There does not appear to have been any quorum requirement, at least not for ecumenical councils—of all the bishops of the world, only 180 attended the First Council of

¹⁸⁷ Cf. Acts 15

¹⁸⁸ EUSEBIUS, book V, number 24, p. 173.

¹⁸⁹ THOMAS FITZGERALD, “Conciliarity, Primacy and the Episcopacy”, pp. 32-33.

Constantinople, and none of them were Western! The western canon law in force for the Second Vatican Council gave each bishop one vote in the council, and required a two-thirds majority for decisions.¹⁹⁰ The early canons are not so precise, but they do indicate that decisions were to be based on an agreement large enough that consensus could be said to have been achieved (e.g. canon 6 of Nicea¹⁹¹). Given that this canon does not merely speak of a simple majority, this makes the voice of each bishop significant (since the voice of a single vote is much more important in an assembly requiring near-unanimity than in one requiring a mere 50% + 1 !). And lest we imagine that these councils had no real authority, we need only turn to the formulations they variously developed, typically ending certain canons with “*anathama sit*”—“let him be accursed”—showing the authority with which these decisions were vested. The single vote of a bishop, then, was a real authority, and synods and councils were real opportunities to exercise the *munus ad extra*.

In addition to the power of a vote within a council, however, certain bishops also possessed a veto. These were typically the local metropolitan or patriarch. Again, the term “veto” is a juridical term which is not necessarily directly applicable

¹⁹⁰ JOHN XXIII, “Appropinquante Concilio”, *Motu Proprio*, August 6, 1962, Article 39, par 1., found in *Documentation Catholique*, 7 oct 1962, p. 1233.

¹⁹¹ WILLIAM JURGENS, *Faith of the Early Fathers*, volume I, no. 6511. Part of the canon reads: “If, however, the vote was participated in by all, and was made in discernment and in accord with the canons, but it is yet opposed by reason of the contentiousness displayed by two or three, let the vote of the majority prevail.”

to the practice of the early Church. A notion similar to it is definitely intended, however, in Canon 34 of the apostolic canons, which states, “The bishops of each nation must recognize him who is first among them and must regard him as head, and do nothing exceptional without his consent.”¹⁹² This authority, as it exists in a context of synodal governance of a territory outside the limits of a diocese, show another manner of exercising a special *sollicitudo*: the metropolitan who disagrees with a proposed course of action may act to countermand that action.

A last example of how this principle was applied is found in the election of a new bishop within a province. Canon 4 of the Council of Nicea stated: “A bishop ought certainly be chosen by all the others of the province. But if this is too difficult, because of urgent necessity, or because of the length of the journey, then at least three shall assemble in the same place, and the votes of those absent having been communicated in writing, let the consecration take place. The confirmation of the proceedings, however, belongs in each province to the metropolitan.”¹⁹³

3.3.5 *The ministry of primate/patriarch*

As has been alluded to in the previous section, the Church knew, even in its relatively early days, the office of primate (typically a metropolitan or patriarch). Even the Canon 34, as mentioned previously, while definitely not of apostolic

¹⁹² THOMAS FITZGERALD, p. 36.

¹⁹³ WILLIAM JURGENS, *The Faith of the Early Fathers*, vol 1, no 651j.

origin, was attributed to the apostles, indicating that its authors considered the tradition of presidency by a primate to be of early origin. FitzGerald writes: “Apostolic Canon 34 and a number of related canons recognize that the provincial metropolitan has certain privileges which express in very practical ways his primacy in the regional association of local churches. These privileges include the right to preside at meetings of the regional bishops, the right to confirm the election of new bishops in the province, and the right to preside at their ordination.”¹⁹⁴ These canons, most especially, were canon 6 of Nicea, canon 3 of Constantinople, and canons 9, 17, and 28 of Chalcedon.

The Western experience of primacy, especially in the theological discussion, often turns around the position of the Patriarch of the West, the bishop of Rome. Because, as previously mentioned, I do not wish to discuss the particular position of the Pope in this paper (as the justifications for his *exousia* are often different than those for the common *sollicitudo universalis* of the general episcopate), we must turn to Eastern examples of the experience of primacy. Certainly it was by a very early tradition that the extra-territorial responsibility of patriarchs was recognized. Canon 6 of Nicea read: “Let the ancient custom which is followed in Egypt and Libya and the Pentapolis remain in force, by which the Bishop of Alexandria has the supervision of all those places...Similarly, in regard to Antioch and the other

¹⁹⁴ THOMAS FITZGERALD, “Conciliarity, Primacy and the Episcopacy”, *St. Vladimir’s Theological Quarterly*, Volume 38, number 1, 1994, p. 37.

provinces, let the inherited rights of the Churches be preserved.”¹⁹⁵

How, in this perspective, have non-Papal primates exercised their own particular *munus ad extra*? In a remarkable contribution to the collection “L’*épiscopat et l’église universelle*”, Archimandrite Oreste Kéramé notes three important areas where it is “patriarchates” (which he does not restrict to the pentarchy¹⁹⁶, but expands to include Carthage, for example¹⁹⁷) which have taken the initiative and have exercised an *exousia* proper to them.

First, there is the question of liturgy. As mentioned in a previous section, one of the roles of the local bishop is to act as a sort of “apostolic memory”, in so doing becoming a living part of Tradition. The liturgy over which this bishop presides becomes a carrier, then, of this tradition, and his overseeing of the liturgy is, then, a legitimate episcopal role. We do note certain regional manifestations, however, in the development of the liturgy, which imply some sort of regional supervision. In discussing these “rites”, the Archimandrite notes that “la source visible immédiate, historique, de chacun de ces rites, de sa réglementation, de sa légitimation formelle juridique est différente, malgré bien des interférences. Ici c’est Rome, là c’est Constantinople, ou Alexandrie, ou Antioche, ou le synode carthaginois, ou une de leurs filiales canoniques qui est le « responsable » manifeste.

¹⁹⁵ WILLIAM JURGENS, *Faith of the Early Fathers*, vol 1, no. 6511.

¹⁹⁶ The five sees of Rome, Constantinople, Alexandria, Antioch, and Jerusalem, have historically been referred to as the Pentarchy.

¹⁹⁷ ORESTE KÉRAMÉ, « Les chaires apostoliques et le rôle des patriarchats dans l’église », found in CONGAR, YVES, and DUPUY, B.-D., ed., *L’*épiscopat et l’église universelle**, p. 265.

En un mot, leur claire origine ecclésiastique, telle que saisie par l'expérience, c'est le « patriarcat ». »¹⁹⁸

Next, the archimandrite mentions an administrative and canonical role. “Ces différenciations rituelles impliquent d'immanquables autonomies de réglementation, de gouvernement, de législation. Et, de fait, les lois, les dynamismes administratifs ne sont pas identiques ici ou là. On jeûnera, on concevra le célibat ecclésiastique, la profession monacale, les modalités canoniques du mariage, bien des choses encore, d'une manière différente.”¹⁹⁹

Lastly, there is the question of mission activity. But I would like to discuss this in more depth in the next section.

3.3.6 *The role of evangelization*

Truth be told, I consider this section of my paper to be one of the most important. Oddly enough, however, as central as mission is to the life of the Church, it was very rarely mentioned in the ecclesiological commentaries I consulted for the paper. It was almost as though, when considering the role and of office of bishops, mission is simply not something that was thought about. Still, even if ecclesiology lacks examples of mission activity as part of the *sollicitudo universalis*, history does not. Archimandrite Kéramé mentions several examples:

¹⁹⁸ *Ibid.*, p. 266.

¹⁹⁹ *Ibid.*, p. 266.

“Je pense en particulier à la merveilleuse histoire, à l'épopée pour le Christ de cette branche de l'Église d'Antioche si malencontreusement qualifiée de « nestorienne ». Je n'oublie pas l'activité alexandrine en Éthiopie. Mais la maternité en Christ de l'Église de Constantinople..n'éclate-t-elle pas aux yeux de tous? Il suffit de nommer la Russie.”²⁰⁰

Let us take, as a single example, the evangelization of China. The earliest evidence of Christianity in China comes from archeological sources which indicate that Christianity was present there in even the early 8th century!²⁰¹ The Christians who reached China at this early date had found themselves cut off from the rest of Christianity since the Council of Ephesus—but this did nothing to prevent them from continuing to exercise this special part of the *mumus ad extra*.

Even in our own day, we see this solicitude acted upon by our Quebec bishops, in their February 2, 1921, founding of the Société des Mission Étrangères de Laval, devoted to the evangelization of peoples.²⁰² These are only a few of the remarkable examples of missionary work promoted by bishops as part of their *sollicitudo universalis*—a universality which includes, not only all Churches, but all peoples.

²⁰⁰ *Ibid.*, p. 267.

²⁰¹ See P. Y. SAEKI, *The Nestorian Documents and Relics in China*, passim.

²⁰² See their web site, « www.smelaval.org », for more details.

3.3.7 *Appellate authority*

As mentioned in a previous section, one of the functions of the local bishop was to act as judge, with his greatest sanction being excommunication. It was a sentence that bound the whole Church, but because of possible abuses was also subject to a right of appeal. This implies that there existed an aspect of the *sollicitudo universalis* in which bishops had jurisdiction over cases outside their own territories regarding this right of appeal—another historical example.

I have hesitated to include the mention of this right of appeal in the section on patriarchs/primates, because while there is no question that the place of appeal became standardized in patriarchates, even local bishops shared in this *munus*.

Canon 5 of Nicea I included this reference:

Excommunications should be investigated, lest it might have happened that they were excommunicated through meanness or contentiousness or some such disposition on the part of the bishop. Moreover, so that this fitting investigation may take place, it seemed proper that there should be each year in each province two synods a year, so that through this assembling in common of all the bishops of the province, such investigations may be undertaken; and thus it will be clear to everyone that those whose disobedience to the bishop is established are justly excommunicated, until it shall please the assembly of the bishops to mercifully modify the judgement.²⁰³

So this role was not only confined to those “higher in the hierarchy”, but even local bishops participated in this appellate proces.

²⁰³ WILLIAM JURGENS, *Faith of the Early Fathers*, vol 1, no. 651k.

To be sure, however, patriarchal appellate authority existed. The patristic Church knew a period where the Bishop of Rome was considered to have a sort of universal appellate authority.²⁰⁴ There are cases of patriarchs of important cities appealing to him: St. John Chrysostom, for example, after having been deposed. But Chrysostom not only appealed to Rome, but also to Venerius of Milan and Chromatius of Aquileia²⁰⁵, showing that this type of authority was not restricted to Rome. Tillard points out that the Council of Chalcedon makes this explicit in, for example, the case of Constantinople: “L’ évêque de la « Rome cadette » jouit ainsi d’ un privilège exceptionnel, le rendant arbitre épiscopal dans la communion des diocèses.”²⁰⁶ “Throughout the centuries, Constantinople has been called upon to serve as a guide and thoughtful arbitrator in disputes involving other local churches.”²⁰⁷ The Canon itself read:

If a clergyman have a complaint against his own or any other bishop, let it be decided by the synod of the province. And if a bishop or clergyman should have a difference with the metropolitan of the province, let him have recourse to the Exarch of the Diocese, or to the throne of the Imperial City of Constantinople, and there let it be tried.²⁰⁸

Even in cases where the bishop of Rome had been called on to intervene,

²⁰⁴ TIMOTHY (KALLISTOS) WARE, *The Orthodox Church*, p. 323.

²⁰⁵ JOHN ERICKSON, *op. cit.*, p. 8/24.

²⁰⁶ J.-M.-R. TILLARD, *L’Église locale*, p. 434.

²⁰⁷ THOMAS FITZGERALD, *op. cit.*, p. 40.

²⁰⁸ NICENE AND POST-NICENE FATHERS, second series, volume 14, p. 274.

he relied upon the participation of his fellow bishops in this appellate ministry, relying on their own proper participation in the *sollicitudo universalis*. We see this in the canons of the Council of Sardica, especially in Canon 5, which explicitly refers to the bishop of Rome associating other bishops in the rendering of judgement:

If any bishop is accused, and the bishops of the same region assemble and depose him from his office, and he appealing, so to speak, takes refuge with the most blessed bishop of the Roman church, and he be willing to give him a hearing, and think it right to renew the examination of his case, let him be pleased to write to those fellow-bishops who are nearest the province that they may examine the particulars with care and accuracy and give their votes on the matter in accordance with the word of truth.²⁰⁹

Clearly, then, the appellate authority is another example of the *sollicitudo universalis* of the ordinary bishop.

3.3.8 *Peacemaking and fraternal correction*

The existence of disputes in the Church, and the need for an appellate authority, especially when considering the case of brother bishops, does not mean to exclude a more general *sollicitudo universalis* of tending the Church of Christ simply to keep the peace—and to actively contribute to the making of that peace, when necessary. As an example of this ministry I offer the role played by St.

²⁰⁹ WILLIAM JURGENS, *Faith of the Early Fathers*, volume I, no. 702c.

Irenaeus during the Easter controversy when Victor was bishop of Rome. Polycrates of Ephesus had written to Victor regarding their observance of the date of Easter, a fragment of which is preserved in Eusebius.²¹⁰ Eusebius continues: “Thereupon Victor, head of the Roman church, attempted at one stroke to cut off from the common unity all the Asian dioceses, together with the neighbouring churches, on the ground of heterodoxy.”²¹¹ At this moment Irenaeus intervened, writing to Victor.

He gave Victor a great deal of excellent advice, in particular that he should not cut off entire churches of God because they observed the unbroken tradition of their predecessors...Irenaeus, whose name means ‘peaceable’ and who by temperament was a peacemaker, pleaded and negotiated for the peace of the churches. He corresponded by letter not only with Victor but with very many other heads of churches, setting out both sides of the question under discussion.²¹²

A student of ecclesiology studying the evolution of the papacy would want to see this as an early example of a universal ministry of the bishop of Rome—as his right to excommunicate those churches is not challenged, simply the appropriateness in this case. But we also see something else: another exercise of the ministry of a bishop (Irenaeus was in Gaul) for the sake of the good of the universal church.

²¹⁰ EUSEBIUS, *op. cit.*, book 5, number 24, p 172.

²¹¹ *Ibid.*, p. 172

²¹² *Ibid.*, p. 173-174

3.3.9 *Financial and material support*

The interdependence of local Churches, and the bonds of love which are meant to unite them, must become more than mere examples of jurisdiction, or else they are meaningless. I had hoped, in the consultation of certain ecclesiology texts, to find historical examples of the kind of financial and material support which the letter of James requires of Christians if their faith is not to be hollow. Curiously, I found none.

This does not, of course, mean that these expressions of charity did not occur over the course of time. In modern church of Canada, the Canadian bishops were responsible for founding Development and Peace, an organization devoted to the development of peoples as called for by Pope Paul VI in his encyclical *Populorum Progressio*. More recently, Cardinal Jean-Claude Turcotte, as President of the Canadian Conference of Catholic Bishops, dispatched a letter to the bishops of Colombia, expressing solidarity with them as they struggle to recover from a devastating earthquake.²¹³ Still, it is curious that none of these examples are cited as true examples of a living ecclesiology. This may perhaps be one of the areas where a good view of history can inform our present-day theology.

²¹³ JEAN-CLAUDE TURCOTTE, "Letter to the Archbishop of Medellin Regarding the Recent Earthquake in Columbia", January 27, 1999

3.3.10 The development of theology and the life of the Church

As a last point, I would like to point out the marvellous contribution to the life and culture of the Church that has been made by many great bishops over time. To be sure, not all of the Fathers and Doctors of the Church have been bishops: St. John of the Cross was a priest, St. Ephrem was a deacon, St. Teresa of Avila was (obviously) not even a member of the clergy! But many have been bishops, and theological and pastoral work has arisen directly out of their ministry as leaders of a local church, but with an influence and an effect extending far beyond. Karl Rahner points this out in his work, "The Episcopate and the Primacy". He writes:

The bishop, too, has a responsibility for the whole Church...in the sense that he remains at the disposal of the universal Church and of God in such a way that whatever happens in his diocese happens in "communion" with the universal Church, and at the same time happens in such a way that it can be a point of departure from which God's impulse can spread into the universal Church.

As a matter of fact, this has always been so in the history of the Church. If an Athanasius, an Ambrose, an Augustine, a Ketteler (as the pioneer of the Church's modern social teaching), a Cardinal Suhard and many others were not only good bishops of their own dioceses, but signified something irreplaceable for the whole Church, then this greater significance was not theirs as merely private persons (as great theologians, for example) but was essentially based on their quality as bishops. They could never have done what they did, if they had not been bishops; and what they did it was for them to

do because they were bishops.²¹⁴

The names Rahner mentions are, of course, merely examples—there are countless others. And it is not only names that are countless, but specific examples of how a local Church becomes the origin for something that enriches the church universal about as well. I think of the responsibility of the local bishop for canonizations—how many universal saints today are recognized as such because of an original recognition of holiness on the part of local bishops? The same applies to liturgy, rich in local rites to a certain degree forgotten today (in Milan, for example, which retains its Ambrosian Rite, named after its famous bishop; the Mozarabic rite of Spain; and the Gallican rites of Gaul, now only of interest to historians). All these examples—of liturgy, of theology, of pastoral practise—arose simply out of the ordinary role of the bishop, a role which was not closed to a *sollicitudo universalis*.

3.4 Conclusion: the *munus ad extra* rediscovered

That the mission of the local bishop extends beyond the boundaries of his local Church has, I hope, been amply demonstrated. What is curious is how much of a discovery this is for so many! Mission and jurisdiction are concepts which seem to get confused so very easily – as though, unless a person has the power of jurisdiction over a certain area, there is no need for a loving solicitude to be present

²¹⁴ KARL RAHNER and JOSEPH RATZINGER, *The Episcopate and the Primacy*, pp. 33-34.

either. Is this truly consistent with a vision of the Church as a communion? If not, then perhaps we need to begin focussing on raising awareness within the Church of this universal solicitude, and start developing external mechanisms and internal reflexes which promote this universal solicitude. Affective and effective collegiality may not be the same, but they do reinforce the other, and I suspect that promoting the former in a genuine way would do much to allow for the growth of the latter.

CHAPTER FOUR

MODELS OF COOPERATION

It is one thing to examine a problem, and it is quite another to propose possible solutions. In the preceding chapters we have undertaken to examine the problem of double jurisdiction, both in general through an overall assessment of the dogma of papal primacy, and in particular by examining that dogma in the light of the sacramentality of the church and the universal dimension of the mission of the local bishop. In this concluding chapter, we will now proceed to examine possible solutions. This task is made easier by the fact that we are not the first ones to identify and examine the problem! We shall first examine the ideas of other authors who have come before us and critique their proposals in the “new light” the previous study has cast; and I shall then setting forward my own proposal.

4.1 Vatican I proposals

An examination of the debates at Vatican I shows that when the issue of double jurisdiction first surfaced at the Council and was identified as such, certain Council Fathers put forward at the same time their own proposed solutions to the problem. These did not, as we have seen in Chapter I, receive an official response, apart from certain vague assurances. Perhaps the time was simply not right to address the question. Before going on to more modern solutions of the question of double jurisdiction, let us first reexamine these proposals.

4.1.1 Mgr Maret: “la monarchie tempérée d’aristocratie”

Bishop Maret, in his book *Du concile général et de la paix religieuse*, outlined “sa grande idée sur la constitution de l’Église : monarchie tempérée d’aristocratie”²¹⁵, a view which he expounded on at Vatican I. According to Torrell, Maret proposed a view “qu’il appelle une « monarchie composée », à laquelle participent le pape et les évêques. Aucun acte de juridiction ou de magistère ne saurait être irrévocable et définitif sans le concours des deux éléments qui composent cette souveraineté spirituelle.”²¹⁶ Maret sees in this a strict division between ordinary and extraordinary magisterium, not only for the bishops, but for the pope:

Quand le pape seul dirime les controverses, juge les causes de foi, définit la foi, son jugement, sa définition ne peuvent avoir la force d’imposer un assentiment de foi, un acte de foi divine et catholique sous peine d’anathème, si au décret pontifical ne s’ajoutent le concours et l’assentiment des évêques, soit antécédent soit concomitant soit subséquent, soit exprès soit tacite.²¹⁷

One might ask, of course, what difference exists between this position and the Gallican (or even, the conciliarist) position. Maret’s answer is that these theories require the *subsequent explicit* approval of a papal decision, almost like a ratification, before such decisions receive their full “validity”, while he allows for an

²¹⁵ J.-P. TORRELL, *op. cit.*, p. 140

²¹⁶ *Ibid.*, pp. 140-141.

²¹⁷ *Ibid.*, p. 141.

antecedent or simultaneous concordance, which can be tacit.

This theory does have its merits. In allowing for antecedent and simultaneous agreement, for example, it acknowledges that, while the Pope can define dogma, he can't simply make up articles of the faith out of thin air: they must be in continuity with the faith received from the apostles, neither adding to them nor taking away from them, but simply rendering them more explicit. The question, of course, is just how "implicit" can the agreement of the bishops be, and how "antecedent"? If, by some disaster, the majority of bishops in the world today were to fall into some sort of material (but not formal) heresy, could the pope appeal to the "implicit" beliefs of a preceding generation of bishops to define a dogma countering the heresy which the current generation of bishops have fallen into?

From the point of view of the universal mission of the bishops, Maret's view takes into account the universal dimension of the mission of the local bishop. He writes: "la puissance de l'évêque n'est pas entièrement restreinte dans les limites de son territoire. Héritier des apôtres, il succède à la partie transmissible de leur juridiction universelle."²¹⁸ On the other hand, Maret affirms that "les évêques reçoivent immédiatement de Jésus-Christ et leur caractère et leur juridiction."²¹⁹ This particular view would be challenged by Vatican II, which tied jurisdiction to the canonical mission of the bishops, and not to the reception of orders per se. Otherwise, even heretical and schismatic bishops would be considered to possess

²¹⁸ MARET, *De concile général...*, cited in *Ibid.*, p. 143.

²¹⁹ *Ibid.*, p. 143.

jurisdiction, because they receive it from Christ. Of course, there are likely nuances in both these approaches which may allow for them to approach each other more closely, but the fact remains that Maret does go beyond current church teaching on the origin of the power of jurisdiction. Episcopal ordination may make one apt to receive a canonical mission, may give the power of jurisdiction *in potentia*, but the latter is actualised by the canonical mission, something which Maret does not distinguish.

Examining Maret's proposal in light of the sacramentality of the Church and the episcopate, we see that Maret quite strongly emphasises that the bishops receive the plenitude of the sacrament of orders. He goes beyond this affirmation, however, by stating that "il n'y a qu'un seul épiscopat, *possédé solidairement* par tous ceux qui sont élevés à cette dignité."²²⁰ In emphasizing unity the way he does, Maret confuses the "plenitude of the sign" with the plenitude of authority. It is true that episcopal solidarity with the pope does "add something" to the alternative of the pope acting alone. But is this required, as Maret would affirm, for the full "validity" of the act of jurisdiction/magisterium? We have seen that the "extra" could be the plenitude of the sign, rather than having to say it is necessary for the plenitude of authority – a distinction Maret does not make. He cannot be blamed, of course, especially given the historical timing of his proposal, in which such "sacramental reasoning" was not current.

Maret's proposal, then, does have some merit, but in the end its conclusions

²²⁰ *Ibid.*, p. 143.

were refused by the Council, which in the end proclaimed a contrary doctrine: that the Pope can proclaim definitive acts even if the assent of the bishops -- no matter what the historical origin of such proclamations -- is lacking. Its lack of nuance means we must refuse it as well.

4.1.2 *Mgr Papp-Szilágyi: le gouvernement pétro-apostolique*

In a speech given May 28, 1870, Mgr Papp-Szilágyi spoke on behalf of the rights of the bishops. His reasoning went something like this:

Puisque les évêques enseignent à leurs fidèles et à leurs prêtres à obéir au pape, il est normal que le pape dise en retour pourquoi il faut aussi obéir aux évêques...Puisque le schéma dit que le pape affirme et défend ces droits des évêques, il faut les préciser et dire qu'ils sont, comme lui, successeurs des apôtres, établis par l'Esprit-Saint, pasteurs et docteurs de l'Église, gardiens et interprètes avec lui du dépôt de la foi.²²¹

Asked to describe the nature and government of the Church, he would reply in one word: petro-apostolic. But what does this term mean? Papp-Szilágyi explains:

Les évêques unis et subordonnés au Pontife Romain, le pasteur principal du troupeau du Seigneur, non seulement gouvernent et régissent par un pouvoir de droit divin leurs troupeaux particuliers, mais ils partagent encore avec lui la sollicitude de toute l'Église dont ils sont, avec lui, législateurs et juges. De sorte que le gouvernement de l'Église réside dans l'épiscopat uni à son premier, le Souverain Pontife ; autrement dit, le

²²¹ J.-P. TORRELL, *op. cit.*, p. 147.

gouvernement de l'Église est pétro-apostolique.²²²

This proposal has much in common with the ideas of Bishop Maret, in that the government of the Church is seen to reside in the unity of the episcopate and the pope, although it must be admitted that Papp-Szilágyi never does require in the way that Maret does the conjunction of the two as a necessary precondition for the exercise of the supremacy of government.

Examining the proposal of Papp-Szilágyi in the light of our twin criteria, we see that Papp-Szilágyi very strongly takes into account the universal dimension of the ministry of the local bishop, as evidenced by his own words already quoted above. Torrell comments on this fact himself when he compares Papp-Szilágyi's approach with that of Maret: "Il semble concevoir une unité initiale dans laquelle il dégage un ordre autour d'un premier, alors que Maret donne l'impression de composer cette unité à compter de deux éléments séparés."²²³ Papp-Szilágyi, in effect, starts from a more "universalist" understanding.

Regarding the sacramental dimension and the jurisdiction of the local bishop, it is very difficult to draw any definite conclusion regarding what position Papp-Szilágyi might hold, given that he does not mention the topic at all.

To conclude, an essential weakness of Papp-Szilágyi's plan is that it does not take into account the question of the fullness of the authority of the Bishop of Rome when he acts alone. It is precisely this, however, that the First Vatican

²²² PAPP-SZILÁGYI, quoted in J.-P. TORRELL, *op. cit.*, p. 147.

²²³ J.-P. TORRELL, *op. cit.*, p. 148.

Council wanted to (and did) define, and so while its more organic presentation of the unity of the episcopate with its head is useful, the Papp-Szilágyi plan as a whole adds little else to the discussion.

4.2 Post-Vatican II proposals

The interim period between the First and Second Vatican Councils, as we have already seen, saw an interpretation of the dogma of papal primacy in an ultramontane context. This meant that there was precious little serious theological reflection on the problem of double jurisdiction in this time period, except simply to repeat or defend the conciliar doctrine. Since the Second Vatican Council, however, there has been a flourishing of literature on the topic – some of it specious, of course, but some of particular value. According to my estimation after having reviewed the literature, this time period can be divided into 4 periods:

- (1) From Vatican II (including its theological preparation) to the *Humanae Vitae* controversy, in which the question was being looked at with a new openness.
- (2) From the *Humanae Vitae* controversy to the opening of theological dialogue with the Orthodox Church and the submission of the ARCIC Final Report. This period is characterized by strong polarization on the question of papal authority.
- (3) From the aforementioned ecumenical events to the encyclical *Ut Unum Sint*. This is a period of focussed theological reflection, and of a deepening of the meaning of a “theology of communion”, generally driven by ecumenical concerns.
- (4) From the encyclical *Ut Unum Sint* to the present day. With the invitation from

John Paul II to reflect theologically and ecumenically on the office of the pope, there has been a burst of literature on the subject, building on the insights of the previous periods.

The following sections, therefore, will deal with both complete proposals regarding the question of double jurisdiction, as well as a critique of significant scholarly works which, although they might not treat the question in its entirety, nevertheless contribute something important to the discussion.

4.2.1 *Karl Rahner: The Episcopacy and the Primacy*

Sometimes it seems that there isn't a topic on which Karl Rahner did not write, and the problem of the relationship between the episcopate and the primacy is no exception. He himself recognized the problem, and summarized it thus: "even *after* the Vatican Council...it still remains difficult to see how the two facts – the universal and direct primacy of jurisdiction of the pope on the one hand, and the divine institution and indissolubility of the episcopate on the other (as an irreducible, if not independent power), – can be reconciled with each other."²²⁴ He does recognize that the solution does not lie in a parcelling out of functions, in that "the Church's own nature shows that the problem of the inalienable powers of the bishops cannot possibly be solved by singling out certain powers and privileges of the bishops over which the pope has no control, as every sort of Gallicanism and

²²⁴ KARL RAHNER and JOSEPH RATZINGER, *The Episcopate and the Primacy*, p. 19.

Febronianism has always tried to do.”²²⁵ Despite this, however, there is some sort of delineation, because the episcopate exists (as does the papacy) by divine right.

Rahner comments on this as follows:

The answer to the problem of the *ius divinum* of the individual bishop lies in the *ius divinum* of the universal episcopate. To understand our point, we must remember that the papal power over the individual bishop, even to the point of deposing him, cannot and may not, by a simple extension, be exercised over the universal episcopate; that, therefore, the pope’s rights over the universal episcopate are not the mere sum of his rights over the individual bishops. Therefore the papal rights over the individual bishop must be exercised in such a way that the divine right of the universal episcopate as a college is not, in effect, abolished or its nature threatened.²²⁶

Rahner recognized, however, that this does not solve the problem, in that “the problem of the content of any single bishop’s divinely-given jurisdictional power becomes the problem of the jurisdiction of the episcopate as a whole.”²²⁷

Rahner continues his reflection by considering the collegiality of bishops, founded in the college of apostles. “The case of the relationship between primacy and the episcopate can be resolved only by recognizing the college as such to be the prior entity, not subsequently composed of individuals already possessed of their own authority before entering the college; and that the primacy of the pope is a

²²⁵ *Ibid.*, p. 33.

²²⁶ *Ibid.*, pp. 72-73.

²²⁷ *Ibid.*, p. 74.

primacy *within* and not *vis-à-vis* this college.”²²⁸ From this proceeds a long discussion of the nature of this college, and the authority it exercises. This culminates in a review of a debate held at Vatican I, regarding the subject of infallibility: is it two (the Pope and an Ecumenical Council), or just one (the Pope alone)? Rahner concludes that it is just one, but not that the infallibility of a Council flows out from a prior infallibility of the Pope. Instead, this subject is the College of Bishops united to the Pope as its Head.

When therefore the pope defines something sometimes “alone” and sometimes together with the council, it is not a question of two acts of different subjects, but of two different procedures of one and the same subject, which differ only in circumstance that in the one case the one moral subject is “dispersed throughout the world”, and in the other is assembled in one place, where the co-operation and fraternity of the members of the college with the head is more clearly manifested.²²⁹

As a critique of Rahner’s theological development, we must firstly recognize that he is here implicitly alluding to the “perfection of the sign” criterion. The question is: a sign of what? The answer would seem to be: a sign of the college of bishops. But it is herein that lied the problem. While Rahner does, in fact, consider the authority of the College not as arising from metaphysical principles but from a positive decision of Christ, it is almost as though he holds Christ to have granted this authority to be exercised in an quasi-independent way. Put another way, does Rahner see the College of Bishops as the *subject* of

²²⁸ *Ibid.*, pp. 76-77.

²²⁹ *Ibid.*, p. 97.

authority given by Christ to govern the Church, or does he see the College as the *means* by which Christ governs his Church? Rahner tends to the former, while this thesis (as seen in Chapter II) contends that the latter is, in fact, the more accurate representation.

Regarding the universal dimension of the mission of the individual bishop, Rahner's contribution has already been noted on pages 108-109 of this thesis, and so we will not repeat it here.

4.2.2 *Emmanuel Ghikas: "redresser" les définitions du premier concile du Vatican*

In an article published in *Irénikon*, Emmanuel Ghikas, an Orthodox theologian, states his belief that "les principes essentiels qui doivent présider au « redressement » des définitions du premier concile du Vatican...se trouvent déjà inscrits dans la tradition théologique de l'Église occidentale elle-même."²³⁰ No dogmatic wording changes are, strictly speaking, necessary, but rather, according to Ghikas, the current teaching needs to be put in the context of certain other principles, the main one being the following: "Le rôle du pape est de faire observer la loi, qu'il doit être le premier à appliquer...[Le principe] le plus important, le plus fondamental est sans conteste celui de la primauté de la loi sur toute autorité ecclésiastique quelle qu'elle soit."²³¹ This creates a so-called compromise: Ghikas

²³⁰ EMMANUEL GHIKAS, "Comment 'redresser' les définitions du premier concile du Vatican", *Irénikon*, volume 68, no. 2., p. 199.

²³¹ *Ibid.*, p. 199.

is ready to reject the conciliarist notion that a council is above a pope as though the two were separate entities, but in exchange the pope must respect the canons of the Church, presumably arrived at by means of councils. Decisions can only be arrived at if the pope agrees to them, but once he does he is bound by them as well. Unfortunately, this plan does have its flaws, primarily in that it does not acknowledge that, within the Catholic understanding of his primacy, the Pope himself is a source of universal legislation. By turning to the 34th apostolic canon as a reference²³², the Ghikas plan seems to imply that only a council can undo a council, but this does not automatically follow from the notion that the Pope is subject to the law. Perhaps he is, one might concede, as long as that law is in place. But can the Pope unilaterally change the law itself? As well, given that the Roman See is a final court of appeal, who would judge the Pope were he to violate a canon without changing it first? Ghikas' point is well taken, but in the end his solution is incomplete.

4.2.3 *Michael J. Buckley: Habitual vs. substitutional powers*

In his book "Papal Primacy and the Episcopate: toward a relational understanding", Michael J. Buckley devotes chapter six to the question of the functions of the papal primacy, and divides these functions into two categories: habitual, and substitutional. Each refers to the relationship between the pope and

²³² Cf. *Ibid.*, p. 202.

the local bishop. "Habitual" functions are "those that obtain in the normal execution of papal responsibilities,"²³³ while substitutional functions are "those that obtain in extraordinary circumstances when other structures of leadership and service have broken down and the unity in faith and communion of the episcopate for the faithful is severely threatened."²³⁴ Put another way,

substitutional authority (i.e. the substitutional use of authority) is made necessary by deficiency and immaturity. It is indispensable at a period when a local church cannot direct itself adequately. In contrast, the habitual or essential use of authority does not argue to immaturity on the part of those under this authority; it rather presumes a common good of all parties, units and component societies and recognizes that there is someone who cares for this.²³⁵

In a sense, this theory consists essentially in a formulation of the principle of subsidiarity, as it might be applied to ecclesial government. Buckley himself states as much.²³⁶ But one must ask: is this an appropriate model to follow?

The notion of subsidiarity was developed as part of a political theory, in which it is understood that the individual is responsible for pursuing his particular good, while the State intervenes only when the individual alone (or other intermediate bodies) cannot succeed on their own. But is ecclesial government in place only to serve the common good? If, as we have argued, it in fact is a

²³³ MICHAEL J. BUCKLEY, *op. cit.*, p. 64.

²³⁴ *Ibid.*, p. 64.

²³⁵ *Ibid.*, pp. 64-65.

²³⁶ *Ibid.*, p. 66.

sacramental reality, then it has a larger role: that of sacramentally representing the Headship of Christ. This role is indispensable, because the Church is a body in a mystical way, quite unlike a typical civil society. This is not to say, of course, that all activity and decision-making must come from the Pope, without the local bishops having any say, but because the Pope and bishops together form a college united by means of a sacrament, subsidiarity is applicable to the internal structure of the Church only in a form analogous to its civil formulation.

In the end, the making of a distinction between habitual and substitutional powers risks becoming a staking out of territory, and the appeal to subsidiarity as a governing principle (without any nuance) only amplifies this tendency. But when ecclesial government is seen sacramentally, in view of the “perfection of the sign”, one realises that the real question is not, Who gets to do what?, but rather, How is the Headship of Christ made manifest? The fundamental unity between all bishops—including the bishop of Rome—risks being obscured otherwise.

4.2.4 Separating patriarchal and primatial powers

One proposal which appears often in the literature is also one for which, curiously, I have never been able to find an originating source: the idea of separating the patriarchal and primatial powers of the Pope. This idea can be summarized as follows: first, the theory requires that we recognize that the Pope is both universal primate and patriarch of the West. Presumably, under this model, a patriarch has a more “hands on” governance of a church, while the Pope, acting

as universal primate, would have more of an “overseeing” role than a role of hands-on governance. Next, the theory presumes that, since the Latin church clearly is the largest of the *sui iuris* ritual churches in the Catholic Church, there has been a gradual blurring of roles, and that the Pope has treated the other *sui iuris* ritual churches (i.e. the Eastern ones) as though they were under him as their patriarch, not as Pope – much to the annoyance of those other ritual churches. To prevent misunderstanding and conflicts, then, it would be helpful to investigate what functions pertain to each of the very particular roles.

This approach certainly does have some merit. First of all, it is absolutely true that the Latin church has, in the past, sometimes forgotten that its Eastern brethren are not simply Latins with a different Mass, but have a distinct tradition going back to the time of the Apostles. In fact, this has at times become a process called “latinization”, in which it is assumed that the Latin practices are inherently superior, and therefore should be copied by the East. Understandably, this process has been resisted with fervour by the Eastern Churches. In addition, there is no question that the Pope, in governing the Catholic church, has governed the Latin church more directly than the Eastern churches. A simple example is in the appointing of bishops throughout the world. In the Latin church, bishops are named (with very few exceptions) by Rome. In the Eastern churches, on the other hand, bishops are elected by the appropriate patriarchal synod. These elections are merely confirmed by Rome, not formally approved.²³⁷

²³⁷ CODE OF CANONS OF THE EASTERN CHURCHES, nos 180-189.

The proposal to formally distinguish between the patriarchal and primatial functions of the Pope has, it seems, some merit. There are difficulties, however. It is important to recognize that if the primacy is not an “add-on” to the episcopacy of the bishop of Rome, but is rather rooted in it, then one must make the same argument regarding any patriarchal status, which logically is subordinate to the dimension of universal primacy. Quite simply, unlike certain interpretations which see the emergence of patriarchal sees as more accidents of history and political expediencies, the Catholic church believes that the primacy of the bishop of Rome is rooted in the divine constitution of the Church. The proposal to separate the primatial and patriarchal functions is interesting, and may provide some useful criteria to help discern when is a good time to intervene in the life of non-Latin churches, but the proposal has to be nuanced so that it does not ignore the roots of any supra-episcopal ministry (metropolitan, patriarch or primate) in the sacrament of episcopacy itself.

4.3 Conclusion: new theological and pastoral approaches

As I reviewed the literature pertaining to the subject of this thesis, I found that there is tremendous interest in our topic, particularly because of the obvious implications it has for the ecumenical project. Despite this, one gets the sense that we are still groping around for a fresh new approach. Vatican II, in affirming collegiality, seems to have presented a new theological model, but one that many say is an “unfinished project.” Archbishop John Quinn, in a celebrated lecture given

at Oxford,²³⁸ sought to re-launch the debate within the Roman Catholic church, but in a classic American style is more interested in making practical suggestions which he believes would “work”, than in really finding a root solution to the problem of double jurisdiction. Commenting on this, George Weigel notes that “the Quinn proposals seem to treat the relationship of primacy and collegiality as a kind of zero-sum exercise, in which primacy (or the effective exercise thereof) must diminish as collegiality increases.”²³⁹ What is therefore needed? If the conclusions of this piece of research are correct, the problem of double jurisdiction will only be solved if we take into account both the need for a *theoretical theological* model and a *practical pastoral* model. In other words, we must develop both a new enunciation of *orthodoxy*, and a new pastoral *orthopraxy*.

Regarding the theoretical, theological component, it must be informed by our investigations of the sacramental reality of the Church (and episcopate), and in essence means that we must recognize and stop the tendency in theology to forget that Christ, after he ascended to heaven, did not stop governing his Church. The bishops are not Christ’s proxies, they are sacramental representations of his Headship. Consideration of the governance of the Church needs to begin with a focus on Christ, not on papacy, episcopacy, or collegiality. In other words, we

²³⁸ Cf. JOHN R. QUINN, “Considering the Papacy”, *Origins*, volume 26, no. 2, pp. 119-127. See also *The Reform of the Papacy*, by the same author, in which he expands on his ideas.

²³⁹ GEORGE WEIGEL, “The Church’s Teaching Authority and the Call for Democracy in North Atlantic Catholicism”, found in CARL BRAATEN and ROBERT JENSON, eds., *Church Unity and the Papal Office*, p. 153.

need to start by asking the questions, “In what way can Christ, as Head, be said to be truly united to the Church, his Body? How can we know, in practice, when the words of governance of a bishop or bishops are truly the words of Christ, whom they sacramentally represent?”

Regarding the pastoral, practical component, we need to stop discussing how to “divvy up” pastoral authority in the Church, as so many models seem to attempt. Instead, we need to look at the nature of the power of governance in terms of what this power has been given for: the carrying out of the mission of the Church. In effect, this would lead to a psychological reversal of the hierarchical model of the Church: rather than a top-down hierarchy, in which competition for jurisdiction would be likely always to arise, we would conceive of a bottom-up hierarchy, in which each level seeks to empower and enable (and even coax and cajole) the superior level. A more precise theology of mission, for example, could lead to the development of “discernment criteria” for bishops, so that they can evaluate themselves to see if they are doing their jobs well. Such discernment criteria would have to go beyond the evaluation of the quality of the management of the local diocese, however, but would also have to take into account the universal dimension of the mission of the individual bishop. This elaboration would be invaluable to the Pope, whose glory, according to the maxim of St. Gregory the Great, is “the solid vigour of [his] brothers.”²⁴⁰ Such honour must include the promotion – by the Pope – of this universal dimension of the mission of the

²⁴⁰ ST. GREGORY THE GREAT, *loc. cit.*

individual bishop. Were such a promotion to actively occur – aided by a clearer understanding of what this universal dimension actually involves – a new context would be created in which most of the problematic around “conflicting jurisdictions” would simple disappear.

GENERAL CONCLUSION:

PATHS TO RENEWAL

The ecumenical movement of the 20th century, and now the 21st, has ushered in great hopes. Some of these remain unrealized, of course, while other elements seem to have accomplished much but then stalled. Some of the achievements remain at the level of published reports, which have yet to be fully “received” into the life of the Church. Despite this, we must continue to press forward, as it is the will of Christ himself when he prayed that all his disciples might be one. In this general conclusion, then, I wish to present what I believe must be, for the Roman Catholic Church, some steps for us to take.

Let us begin by recalling a principle enunciated by the Second Vatican II in its Decree on Ecumenism:

Catholics, in their ecumenical work, must assuredly be concerned for their separated brethren, praying for them, keeping them informed about the Church, making the first approaches toward them. But their primary duty is to make a careful and honest appraisal of whatever needs to be done or renewed in the Catholic household itself, in order that its life may bear witness more clearly and faithfully to the teachings and institutions which have come to it from Christ through the Apostles.²⁴¹

This text is, I believe, a more than adequate reply to all those who think that any reexamination of the exercise of the papal or episcopal offices is necessarily some sort of betrayal of those offices.

²⁴¹ VATICAN II, *Unitatis Redintegratio*, no. 4.

Next, we must reflect on how renewal and reform take place in the Catholic Church. In the ecumenical field, it is accomplished chiefly through dialogue with our ecumenical partners. But in a lecture given to the Canon Law Society of America, Fr. John Hotchkin, Executive Director of the U.S. bishops' Secretariat for Ecumenical and Interreligious Affairs, had this to say:

The ministry of ecumenists, that is, those who through dialogue, shared prayer and common witness and service seek to tread pathways of convergence which it is hoped will lead to reconciliation and full communion among churches, is a ministry that needs the companionship of the ministry of canonists. For it is the task of canonists to give form and abiding structural expression to relationships and the new realities this new millennium is opening before the church. This is a ministry which demands a good deal of clearheadedness and judiciousness in the building of ecumenical edifices that will stand, and withstand, the test of time. Without the aid of this ministry, there remains a possibility that the accords reached through ecumenical dialogues will in the end reach no further than the production of a sort of entente cordiale among the churches, but not yet that full unity which is Christ's will and prayer for us.²⁴²

We must admit that the Roman Catholic Church is probably the one church with the most developed canonical tradition. We are, after all, the only Church with a set code of canon law. The theological dialogue must continue, of course, something to which this thesis is attempting to make a contribution. But what happens once we reach a common theological vision? What do we do then?

Two recent articles published by the Canon Law Society of America begin

²⁴² JOHN HOTCHKIN, "Canon Law and Ecumenism: giving shape to the future", *Origins*, vol 30, no. 19, p. 291.

to point the way to a possible renewal. In “The power of jurisdiction: empowerment for church functioning and mission distinct from the power of orders”, by J. James Cuneo, he states: “recent proposals for reformation in the constitutional laws of the Church are often expressed in terms of the monarchical-jurisdictional structure of the Church yielding to a more sacramental understanding of the Church’s nature and mission.”²⁴³ He himself touches on aspects of law and how they would be impacted by a more explicit recognition of the sacramentality of the Church in law. In another article, “Structuring the Church as *Missio*”, James Provost notes that the mission of the Church must also inform any such reform:

For the *missio* to take place, discernment must be followed by empowerment. One of the functions of law is to structure how the continuing mission of a group of people is to be empowered. In other words, law frequently has the function of setting the process as well as defining the responsibility for discerning how the Church (or any other society) is to relate to its mission or function and how it will go about getting the job done.²⁴⁴

Do these two articles not touch upon exactly the core of this thesis?

Before any meaningful canonical review could occur, of course, a certain settling of the issues brought up by Ladislav Orsy needs to occur. These are all quite well summarized in the “Code of Canon Law: a text and commentary”,

²⁴³ J. JAMES CUNEO, “The power of jurisdiction: empowerment for church functioning and mission distinct from the power of orders”, found in JAMES W. PROVOST, ed., *The Church as Mission*, p. 191.

²⁴⁴ JAMES H. PROVOST, “Structuring the Church as *missio*”, found in JAMES W. PROVOST, ed., *The Church as Mission*, p. 222.

published by the CLSA.²⁴⁵ Does supreme power flow from the Pope, who associates the bishops with him? Or does it flow from the college of bishops, with the Pope as its head? Is supreme power fundamentally papal, or collegial? The conclusion of this thesis, of course, is that it is fundamentally neither. The commentary mentioned above states that “supreme power (*suprema*) means that there is no power in the Church above this power. It is not subject to any other power on this earth, although it is always subject to Christ.”²⁴⁶ In fact, this power is not only subject to Christ, it is His power, His governance, which is being expressed sacramentally. Once this is recognized, and recognized canonically, unity can be achieved in our understanding of authority, governance, and jurisdiction, for all levels (local, intermediate, and universal) of such governance and jurisdiction.

It was St. Gregory the Great who enunciated the theological principle, quoted by Vatican I, that “my honour is the solid vigour of my brothers.”²⁴⁷ It was also he who instituted great ecclesiastical reforms of a very practical nature as well. Do we not need his patronage today? As the unfinished theological business of Vatican II gradually becomes settled through research and dialogue, we must turn to the more practical dimensions of the question. In so doing, we will achieve what Vatican II laid out as its vision for the Church: a pilgrim, coming ever closer to the

²⁴⁵ JAMES A. CORIDEN, et. al., eds., *The Code of Canon Law: a Text and Commentary*, p. 263.

²⁴⁶ *Ibid.*, p. 268.

²⁴⁷ ST. GREGORY THE GREAT, *loc. cit.*

Kingdom it contains already within itself.

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