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A Canonical Analysis in Light of the Current Liturgical Law

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***SUMMORUM PONTIFICUM* AND THE USE OF THE
EXTRAORDINARY FORM OF THE ROMAN RITE:
A CANONICAL ANALYSIS IN LIGHT OF THE CURRENT LITURGICAL LAW**

by
Chad J. GLENDINNING

A thesis submitted to the Faculty of Canon Law
Saint Paul University, Ottawa, Canada,
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ABSTRACT

On 7 July 2007, Pope Benedict XVI promulgated new ecclesiastical legislation – the Apostolic Letter *motu proprio Summorum Pontificum* – which allows general use of the 1962 *Missale Romanum*, in addition to the pre-conciliar liturgical rites for the administration of the sacraments of baptism, marriage, penance, the anointing of the sick, and confirmation. Although comprised of only twelve articles, the *motu proprio* occasions careful consideration in light of the *ius vigens* and important developments since the Second Vatican Council. Legal discrepancies are inevitable since the liturgical books permitted by *Summorum Pontificum* contain many norms which have been abrogated by later legislation. As all subsequent legislation is dependent upon the authentic teachings of the Second Vatican Council, the problems posed by *Summorum Pontificum* are of great concern to the science of canon law and the unity and good order of the Church itself.

This study seeks to contribute to a deeper understanding of the legislative provisions of *Summorum Pontificum* within the context of post-conciliar liturgical reform. Specifically, the principal objective of this dissertation is to offer a canonical analysis of the provisions of *Summorum Pontificum* and assess the various challenges posed by the document. To achieve this objective, the thesis begins by providing the appropriate context in which to situate the latest provisions for use of the 1962 *Missale Romanum* and other earlier liturgical books, both antecedent (chapter one) and subsequent (chapter two) to the Second Vatican Council. Opposition to the post-conciliar liturgical reform is identified and categorized for the purpose of understanding the proximate motivation of the *motu proprio*, just as earlier provisions are analyzed so to appreciate the unique characteristics of *Summorum Pontificum* itself (chapter three). The final two chapters are dedicated to a consideration of the provisions of *Summorum Pontificum* (chapter four), along with a resolution of a variety of disputed matters, such as the observance of abrogated liturgical discipline, and the incorporation of various post-conciliar legislative developments into earlier liturgical forms (chapter five).

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ABBREVIATIONS

<i>AAS</i>	<i>Acta Apostolicae Sedis</i> , Rome, 1909-
<i>ASS</i>	<i>Acta Sanctae Sedis</i> , Rome, 1865-1909
c.	canon
cc.	canons
<i>CCC</i>	<i>Catechism of the Catholic Church</i>
CCCCB	Canadian Conference of Catholic Bishops
<i>CD</i>	SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church <i>Christus Dominus</i>
<i>CE</i>	<i>Caeremoniale Episcoporum</i>
<i>CCEO</i>	<i>Codex canonum ecclesiarum orientalium auctoritate Ioannis Pauli PP. II promulgatus fontium annotatione auctus</i>
<i>CIC/17</i>	<i>Codex iuris canonici Pii X Pontificis Maximi iussu digestus</i>
<i>CIC/83</i>	<i>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus</i>
<i>CLD</i>	BOUSCAREN, T. and J. O'CONNOR, <i>Canon Law Digest</i> , 13 vols.
<i>CLSA Comm1</i>	CORIDEN, J., T.J. GREEN and D.E. HEINTSCHEL (eds.), <i>The Code of Canon Law: A Text and Commentary</i>
<i>CLSA Comm2</i>	BEAL, J.P., J.A. CORIDEN, T.J. GREEN (eds.), <i>New Commentary on the Code of Canon Law</i>
<i>CLSAP</i>	<i>Canon Law Society of America Proceedings</i>
CLSGBI	Canon Law Society of Great Britain and Ireland
Consilium	<i>Consilium ad Exsequendam Constitutionem de Sacra Liturgia</i>
<i>CR</i>	<i>Calendarium Romanum</i> , 21 March 1969, <i>editio typica</i>
<i>DMS</i>	CONGREGATION FOR SACRED RITES, Instruction <i>De musica sacra</i>

DOL	<i>Documents on the Liturgy 1963-1979: Conciliar, Papal, and Curial Texts</i>
<i>Exegetical Comm</i>	MARZOA, A., J MIRA, R RODRIGUEZ-OCAÑA (eds) and E CAPARROS (gen. ed. of English translation), <i>Exegetical Commentary on the Code of Canon Law</i>
FLANNERY1	FLANNERY, A. (gen. ed.), Vatican Council II, vol.1
GILH	<i>General Instruction on the Liturgy of the Hours</i>
GIRM	<i>General Instruction on the Roman Missal</i>
ID	PAUL VI, Apostolic constitution <i>Indulgentiarum doctrina</i>
IO	CONGREGATION FOR SACRED RITES, Instruction <i>Inter Oecumenici</i>
LA	CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on the principles and norms for translation of liturgical texts <i>Liturgiam authenticam</i>
LG	SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church <i>Lumen gentium</i>
MD	PIUS XII, Encyclical letter <i>Mediator Dei</i>
MS	SACRED CONGREGATION FOR RITES, Instruction <i>Muscam sacram</i>
OBP	<i>Ordo Baptismi parvulorum</i> , 29 August 1973, <i>editio typica altera</i>
OD	<i>Ordo dedicationis Ecclesiae et altaris</i> , 29 May 1977, <i>editio typica</i>
OICA	<i>Ordo initiationis Christianae adultorum</i> , 6 January 1972, <i>editio typica</i>
OLM	<i>Ordo Lctionum Missae</i> , 21 January 1981, <i>editio typica altera</i>
OM65	<i>Ordo Missae</i> , 27 January 1965, <i>editio typica</i>
OP	<i>Ordo paenitentiae</i> , 2 December 1973, <i>editio typica</i>
OU	<i>Ordo Unctionis infirmorum eorumque pastorals curae</i> , 7 December 1972, <i>editio typica</i>

PB	JOHN PAUL II, apostolic constitution <i>Pastor bonus</i>
PO	SECOND VATICAN COUNCIL, decree <i>Presbyterorum ordinis</i>
RI	JOHN XXIII, Apostolic letter <i>motu proprio Rubricarum instructum</i>
RJ in VP	<i>Regulae iuris in Liber Sextus (Corpus iuris canonici)</i>
SC	SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy <i>Sacrosanctum concilium</i>
SL	PAUL VI, Apostolic letter <i>motu proprio Sacram Liturgiam</i>
SP	BENEDICT XVI, Apostolic letter <i>motu proprio Summorum Pontificum</i>
TAA	CONGREGATION FOR SACRED RITES, Instruction <i>Tres abhinc annos</i>
USCCB	United States Conference of Catholic Bishops
VL	CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on inculturation and the Roman liturgy <i>Varietates legitimae</i>

GENERAL INTRODUCTION

In an address to a general audience shortly after the effective date of the instruction *Inter oecumenici* (1965), Paul VI spoke of the various reactions to the initial reforms of the liturgy. He identified two principal responses, the first marked by “confusion and therefore of uneasiness,” and the second “inspired by enthusiasm and praise.” Paul VI was especially critical of those displaying “a certain spiritual laziness,” that is, “the refusal to make the personal effort toward understanding and participation.” Since their opposition to the reforms did not indicate “a true devotion or a genuine perception of the import of the Mass,” Paul VI was unwilling to concede to this disposition:

No, the new way of doing things will have to be different; it will have to prevent and to shake up the passivity of the people at Mass. Before, it was enough to assist; now, it is necessary to take part. Before, being there was enough; now, attention and activity are required. Before, everyone could doze or perhaps even chatter, now all must listen and pray [. . .] The unity of a community action, consisting not only of outward gestures but also of an inner movement of faith and devotion, invests the rite with a special power and beauty. The rite thereby becomes a chorus, a concert; it takes on the rhythm of giant wings soaring toward the heights of joy and of divine mysteries.¹

Despite his best intentions, and those of his predecessors, criticism of the liturgical reform has not subsided and attachment to earlier liturgical forms – only one such form of opposition – has persisted. Those who favour a wider availability of earlier liturgical forms presently outnumber those opposed more than two to one.²

The impetus for the present study is the latest provision for use of the 1962 *Missale Romanum*, the Apostolic Letter *motu proprio Summorum Pontificum*.³ Promulgated on 7 July 2007

¹ PAUL VI, Address to a general audience on reactions to the reform of the liturgy, 17 March 1965, in *L'Osservatore Romano*, 105 (18 March 1965), p. 1, English translation in *DOL*, n. 27, p. 115

² This data is gathered from a study, conducted in the United States in February 2008, by the Center for Applied Research in the Apostolate at Georgetown University. The entire report is available at: <http://cara.georgetown.edu/pr082409.pdf> (18 November 2009).

³ BENEDICT XVI, Apostolic Letter *motu proprio* on the use of pre-conciliar liturgical forms *Summorum Pontificum*, 7 July 2007 in *AAS*, 99 (2007), pp. 777-781, English translation in *Origins*, 37 (2007-2008), pp. 129-132 (=SP).

by Pope Benedict XVI, *Summorum Pontificum* allows for wider use of the 1962 *Missale Romanum* (*SP*, art. 1), in addition to the pre-conciliar liturgical rites for the administration of the sacraments of baptism, marriage, penance, the anointing of the sick (*SP*, art. 9, §1), and confirmation (*SP*, art. 9, §2). Whereas use of the 1962 *Missale Romanum* previously occurred in virtue of a very minor exception contained in the law itself or by means of a privilege, the latest provision allows all priests, in Masses celebrated without the people, to utilize either the Missal promulgated in 1962 or 1970 with no need for additional permission from the Apostolic See or the diocesan bishop (*SP*, art. 2). Similarly, where a group of the faithful adhering to the earlier liturgical tradition stably exists in parishes, the pastor should willingly accommodate their requests (*SP*, art. 5, §1). Again, no need for further permission from the Apostolic See or the local ordinary is required. This is a remarkable departure from the earlier *praxis curiae* and is made possible, in no small measure, by distinguishing the Roman rite into two forms or expressions: the *forma ordinaria* and the *forma extraordinaria* (*SP*, art. 1). The *forma ordinaria* consists of the current liturgical rites revised after the Second Vatican Council. The *forma extraordinaria* of the Roman rite utilizes the liturgical books prior to this liturgical reform. The *motu proprio* asserts that “these two expressions of the church’s *lex orandi* will in no way lead to a division in the church’s *lex credendi*. They are in fact two usages of the one Roman rite” (*SP*, art. 1).

Although comprised of only twelve articles, the *motu proprio* occasions careful consideration in light of the *ius vigens* and important developments since the Second Vatican Council. Legal discrepancies are inevitable since the liturgical books permitted by *Summorum Pontificum* contain liturgical norms which correspond to the 1917 Code of Canon Law, a document explicitly abrogated by the 1983 Code of Canon Law (*CIC/83*, c. 6, §1, 1^o). The principal question, intimated by Pope Benedict XVI himself, is whether *Summorum Pontificum*

detracts from the authority of the Second Vatican Council, particularly the liturgical reform initiated by *Sacrosanctum concilium*. As all subsequent liturgical legislation is dependent upon the authentic teachings of the Second Vatican Council,⁴ the problems posed by *Summorum Pontificum* are of great concern to the science of canon law and the unity and good order of the Church itself.

This study seeks to contribute to a deeper understanding of the legislative provisions of *Summorum Pontificum* within the context of post-conciliar liturgical reform. Specifically, the principal objective of this dissertation is to provide a canonical analysis of the provisions of *Summorum Pontificum* and assess the various challenges posed by the document. Whereas the first two chapters examine liturgical reform both antecedent and subsequent to the Second Vatican Council, the third chapter investigates the roots of opposition to the liturgical reforms, along with the legislative provisions for continued use of the 1962 *Missale Romanum* that preceded *Summorum Pontificum*. The fourth chapter provides a commentary on each article of the *motu proprio*, while difficult and ancillary challenges are left to the fifth and final chapter.

Although the liturgical reforms initiated by *Sacrosanctum concilium* are frequently subjected to the harshest criticism, the Roman rite has not been immune to significant reform. We begin in the first chapter, then, with a consideration of the twentieth century liturgical movement and the Holy See's appropriation of these initiatives. The chapter provides a brief chronological overview of the more significant liturgical reforms of the past century, especially highlighting the legislative initiatives of the Holy See. The purpose of this survey is not merely to provide a historical overview, but to identify significant legislative

⁴ See JOHN PAUL II, Apostolic constitution promulgating the new Code of Canon Law *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75, pars II (1983), p. xi, English translation *Code of Canon Law. Latin English Edition, New English translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 1999, p. xxx

developments introduced into the principal liturgical books of the Roman rite. These developments – the revision of liturgical books, the restoration of liturgical rites, the promotion of sacred music and the active participation of the faithful – served as important precursors to a more intentional and pervasive reform following the Second Vatican Council. The chapter concludes by presenting a number of principles, gleaned from these pre-conciliar sources but mistakenly attributed to the Second Vatican Council, to illustrate that many of the alleged innovations of *Sacrosanctum concilium* possess, in fact, a solid historical and legislative precedent.

The second chapter begins where the first concluded, namely, with the Second Vatican Council's Constitution on the Sacred Liturgy, *Sacrosanctum concilium*. The chapter proceeds to examine notable post-conciliar liturgical reforms according to the revision of the principal liturgical books of the Roman rite: the *Missale Romanum*, *Rituale Romanum*, *Pontificale Romanum*, and *Breviarium Romanum*. The purpose of this examination is to identify potential areas of conflict between what is permitted by *Summorum Pontificum* and the present body of liturgical law, contained both within and outside the 1983 Code of Canon Law.

The third chapter examines the whole spectrum of critical responses to the liturgical reform and the multiple factors that continue to generate opposition nearly forty years after Pope Paul VI required the adoption of the revised rites. The purpose of this examination is not to support or refute such claims but to provide the appropriate context in which to situate the provisions for the continued use of the 1962 *Missale Romanum*. The chapter also considers earlier juridic measures for use of the 1962 *Missale Romanum*, such as the circular letter *Quattuor abhinc annos* (1984) and the *motu proprio Ecclesia Dei* (1988), both of which were explicitly abrogated with the promulgation of *Summorum Pontificum* (*SP*, art. 1).

The fourth chapter examines each article of the *motu proprio*. Attempts have been made to incorporate the latest available commentaries in the analysis which follows. Challenges posed by *Summorum Pontificum* in light of current disciplinary laws are reserved to the fifth and final chapter. Although a more definitive clarification from the Holy See is anticipated, resolution of various disputed matters is offered, particularly in matters regarding the authority of the Second Vatican Council, the incorporation of various post-conciliar legislative developments into earlier liturgical forms, and the observance of abrogated liturgical discipline.

Whereas consideration of earlier liturgical forms is frequently met with dismissal or open hostility, inflaming “the passions and commitments” of proponents and opponents alike,⁵ the present study endeavours to contribute to a greater understanding of these latest provisions in a spirit of critical but respectful inquiry. This dissertation seeks to maintain objectivity, serving neither as an *apologia* for or against the continued use of former liturgical books. Instead, inspired by Benedict XVI’s desire to achieve an “interior reconciliation in the heart of the Church,”⁶ this study wishes to contribute to the strengthening of ecclesial communion and the proper ordering of the *munus sanctificandi*, which the Church, in a particular way, accomplishes through the sacred liturgy (*CIC/83*, c. 834).

⁵ See J F BALDOVIN, *Reforming the Liturgy. A Response to the Critics*, Collegeville, MN, Liturgical Press, 2008, p 12 (=BALDOVIN, *Reforming the Liturgy*)

⁶ BENEDICT XVI, Letter to bishops accompanying the Apostolic Letter *Summorum Pontificum*, 7 July 2007, in *AAS*, 99 (2007), pp 795-799, English translation in *Origins*, 37 (2007-2008), p 134 (=BENEDICT XVI, Letter to bishops)

CHAPTER I

TWENTIETH CENTURY LITURGICAL REFORMS OF THE HOLY SEE BEFORE THE SECOND VATICAN COUNCIL

Introduction

Before considering the liturgical reforms of the Holy See in the twentieth century prior to the Second Vatican Council, it will be helpful to recognize that these reforms occurred within the broader historical context of the nascent liturgical movement. The liturgical movement, seeking both a renewal of liturgical piety and appropriate reforms of the liturgical rites themselves, was itself the result of a multifaceted confluence of pastoral and scholarly objectives. Consequently, it is quite difficult to identify its precise inception. Spanning decades, the liturgical movement – distinct from the corresponding liturgical reforms of the Holy See – had no single identifiable leader, organizational structure, or singular objective.

The liturgical movement arose within an environment of rather staid liturgical practice. After the promulgation of the principal liturgical books of the Roman Rite following the Council of Trent (1545-1563), the Church entered a period of centralization and strict liturgical uniformity.¹ Klauser refers to this period as the “epoch of rubricism,”² a

¹ The principal liturgical books promulgated after the Council of Trent consisted of the following: (1) the *Breviarium Romanum* (1568), containing the prayers, hymns, and readings for celebration of the Divine Office or Liturgy of the Hours, (2) the *Missale Romanum* (1570), consisting of all that is necessary for the celebration of Mass; (3) the *Martyrologium Romanum* (1584), a hagiographical list arranged in the calendar order of the saints’ memorials or feasts; (4) the *Pontificale Romanum* (1596), containing the forms for the administration of sacraments and sacramentals reserved to bishops; (5) the *Caeremoniale Episcoporum* (1600), containing rubrics for liturgies at which bishops preside, and (6) the *Rituale Romanum* (1614), containing the forms for the administration of sacraments and sacramentals not reserved to bishops.

² T. KLAUSER, *A Short History of the Western Liturgy: An Account and Some Reflections*, trans. J. HALLIBURTON, London, Oxford University Press, 1969, p. 119. For similar assessments, see A. FORTESCUE, *The Mass: A Study of the Roman Liturgy*, London, Longmans, Green and Co., 1937, pp. 208-213, A. CHUPUNGCO, *Cultural Adaptation of the Liturgy*, New York, Paulist Press, 1982, pp. 33-34; J.D. CRICHTON, “An Historical Sketch of the Roman Liturgy,” in L. SHEPPARD, *True Worship*, Baltimore, Helicon Press, 1963, pp. 72-76.

period “characterized chiefly by the development of liturgical juridicism and a disproportionate growth in the cult of the saints.”³ Rubrics were now printed at the beginning of the liturgical books, giving rise to an indispensable scholarly endeavour whereby the rubrics, a principal source of liturgical law, were studied with exacting precision by trained rubricians.⁴ The near-universal adoption of the Roman liturgical books would not have been possible without other influences such as the printing press, missionary expansion, and the formation of new religious communities, such as the Jesuits, which assisted with the propagation of uniform liturgical discipline.

When liturgical questions arose within new cultural and ecclesial contexts, the Congregation for Sacred Rites possessed the juridical power necessary to issue rescripts, decrees, and various other declarations.⁵ As such, the authority of diocesan bishops increasingly eroded. By the time the 1917 Code of Canon Law was promulgated, the liturgical authority of the Holy See – already customary since the Council of Trent – was enshrined in the law (cf. c. 1257).⁶

³ P. JOUNEL, “From the Council of Trent to Vatican Council II,” in A.-G. MARTIMORT (ed.), *The Church at Prayer: An Introduction*, vol. 1: *Principles of the Liturgy*, trans. M.J. O’CONNELL, Collegeville, MN, Liturgical Press, 1987, p. 70.

⁴ J.B. O’Connell, a notable rubrician himself, identifies four sources for the interpretation of liturgical law: (1) the authentic and binding decisions of the Congregation for Sacred Rites; (2) custom (cf. *CIC/17*, c. 29), (3) the teachings of rubricians; and (4) the practice of the churches of Rome (J.B. O’CONNELL, *The Celebration of Mass: A Study of the Rubrics of the Roman Missal*, vol. 1, London, Burns, Oates & Washbourne, 1941, p. 3).

⁵ Thousands of decrees issued by the Congregation for Sacred Rites, between 1588 and 1899, were assembled into a collection for easier reference. See *Decreta authentica Congregationis Sacrorum Rituum*, vols 1-5, Rome, Typographia Polyglotta S.C. de Propaganda Fide, 1898-1901. Additional decrees, issued between 1900 and 1926, are included in *Decreta authentica Congregationis Sacrorum Rituum*, vol. 6, appendix I-II, Rome, Typis Polyglottis Vaticanis, 1912-1927. Decrees issued between 1927 and 1946 are included in *Collectio decretorum ad Sacram Liturgiam spectantium ab anno 1927 ad annum 1946*, 2nd ed., Rome, Edizioni Liturgiche, 1947.

⁶ J.M. HUELS, *Liturgy and Law: Liturgical Law in the System of Roman Catholic Canon Law*, Montréal, Wilson & Lafleur Ltée, 2006, pp. 34-38 (=HUELS, *Liturgy and Law*).

The rubrics of the 1570 *Missale Romanum* made no provision for the external active participation of the faithful. Members of the assembly were encouraged to occupy themselves during Mass through communal prayers, such as the rosary, or by singing hymns which were often unrelated to the action at the altar.⁷ The seventeenth and eighteenth centuries produced choral and orchestral masterpieces following the order of Mass, in addition to churches of renowned architectural splendor and elaborate décor, yet liturgical involvement on the part of the faithful remained largely passive.⁸ The liturgical movement began within this context, and as a response to it, by promoting a general restoration of the liturgy, active participation of the faithful, and the renewal of genuine liturgical piety.

V. Funk identifies four major phases or segments to the movement:⁹ Firstly, the monastic movement, consisting of the promotion of Gregorian chant and frequent liturgical prayer, began with the reestablishment of the Benedictine monastery at Solesmes, France (1833) by Dom Prosper Guéranger.¹⁰ Other foundations were equally influential, such as the German monasteries of Bueron (1863) and Maria Laach (1893), as well as the Belgian monasteries of Maredsous (1872) and Mont César (1899). Secondly, the academic or

⁷ J. M. HUELS, "Participation by the Faithful in the Liturgy 1903-1962," in *The Jurist*, 48 (1988), p. 611 (=HUELS, "Participation by the Faithful in the Liturgy").

⁸ For a more detailed consideration of, and distinction between, the liturgical styles of the seventeenth century Baroque period and the eighteenth century Enlightenment, see J.F. WHITE, *Roman Catholic Worship: Trent to Today*, 2nd ed., Collegeville, MN, Liturgical Press, 2003, pp. 25-70.

⁹ V. FUNK, "The Liturgical Movement (1830-1969)," in P.E. FUNK (ed.), *The New Dictionary of Sacramental Worship*, Collegeville, MN, Liturgical Press, 1990, pp. 695-715.

¹⁰ Guéranger was the first to use the expression "liturgical movement" to describe the revival of liturgical studies and interest in improving liturgical worship. He is widely considered the "father" of the liturgical movement. See M. KWATERA, "Prosper Guéranger: Founder of the Modern Liturgical Movement," in R.L. TUZIK (ed.), *How Firm a Foundation: Leaders of the Liturgical Movement*, Chicago, Liturgical Training Publications, 1990, pp. 17-22. On the centenary of his death, a series of four articles was published in *Worship* examining his legacy. See R.W. FRANKLIN, "Guéranger: A View on the Centenary of His Death," in *Worship*, 49 (1975), pp. 318-328; *idem*, "Guéranger and Pastoral Liturgy: A Nineteenth Century Context," in *Worship*, 50 (1976), pp. 146-162; *idem*, "Guéranger and Variety in Unity," in *Worship*, 51 (1977), pp. 378-399; *idem*, "The Nineteenth Century Liturgical Movement," in *Worship*, 53 (1979), pp. 12-39.

scholarly movement consisted of the advances made in the study of Gregorian chant, biblical studies, and patristics. Clearly, these studies were assisted by the rediscovery of early liturgical manuscripts and ritual books.¹¹ Thirdly, the pastoral liturgical movement is perhaps the most widespread and visible of the four phases. It made use of the two earlier phases by popularizing the new academic discoveries and integrating the spiritual riches borne from the monastic movement. Liturgical centres, publications, and conferences in various countries enabled collaboration and slowly popularized innovative pastoral practices. Finally, the legislative element, consisting of the official ecclesiastical response to the liturgical movement, served at times to both support and restricts its activities. Although Funk utilizes the term “legislation,” ecclesiastical responses took many forms, including various papal and curial acts of differing juridic weight and significance.

For the purpose of this study, we will restrict ourselves to this fourth element, that is, various documents of the Holy See from 1903 to the eve of the Second Vatican Council in 1962. This necessary circumscription in no way diminishes the notable contributions of scholars, liturgical centres, and various publications most closely associated with the liturgical movement. Rather, by tracing noteworthy developments under the pontificates of the twentieth century, the various liturgical reforms accomplished can be accurately identified and distinguished from those which resulted from *Sacrosanctum concilium* and the post-conciliar liturgical reform. This chapter, then, will trace these reforms in a chronological order, and will be restricted solely to the documents of the Holy See, including those of a particular and universal application.

¹¹ Many of the pseudo-apostolic texts, such as the *Didache*, the *Didascalia Apostolorum*, and the *Canons of Hippolytus*, which have provided unparalleled access to forms of early Christian worship, were discovered and republished in the late nineteenth century. See P. F. BRADSHAW, *The Search for the Origins of Christian Worship*, 2nd ed., Oxford, Oxford University Press, 2002, pp. 73-97.

1.1 – Pope Pius X: 1903-1914

Although Dom Lambert Beaudun's (1873-1960) address to the *Congrès national des œuvres catholiques* in Malines, Belgium, on the active participation of the faithful in the liturgy, 23 September 1909, is considered by many as the launch of the classical liturgical movement in Europe, the liturgical movement's indebtedness to Pius X is undeniable.¹² The phrase, "active participation," so often associated with the liturgical movement and the reforms of the Second Vatican Council, originated with Pius X in the *motu proprio Tra le sollecitudini*, devoted to the restoration of sacred music and the promotion of Gregorian chant. Through this document and subsequent others, Pius X initiated a significant liturgical reform, consisting of the preparation of new books of chant and the revision of numerous liturgical books. Although not all was completed during his lifetime, the reforms initiated by Pius X helped to rediscover the fundamental value of participation in the liturgy and served as a crucial catalyst for further liturgical reform. Pius X's principal contributions to the objectives of the liturgical movement are considered below.

1.1.1 – Gregorian Chant and Sacred Music

Pius X's interest in the promotion of sacred music began long before his ascension to the papacy. The work of Dom Guéranger and the monks of Solesmes served as a decisive influence on Giuseppe Sarto's later pastoral endeavours. As a parish priest, he introduced the singing of Gregorian chant by the congregation and instituted a choir for the more difficult parts of the Mass. Later, as Bishop of Mantua, he introduced similar reforms across

¹² See B BOTTE, *From Silence to Participation An Insider's View of Liturgical Renewal*, trans J SULLIVAN, Washington, DC, The Pastoral Press, 1988, p 10, J MORILLAU and R LOONBEEK, *Dom Lambert Beaudun Visionnaire et précurseur (1873-1960)*, Paris, Cerf, 2005, p 28, K PECKLERS, "History of the Roman Liturgy from the Sixteenth Until the Twentieth Century," in A CHUPUNGO (ed), *Handbook for Liturgical Studies*, vol 1 *Introduction to the Liturgy*, Collegeville, MN, Liturgical Press, 1997, p 167, B NEUNHEUSER, "Movimento liturgico," in D SARTORE and A M TRIACCA (eds), *Nuovo dizionario di liturgia*, Rome, Edizioni paoline, 1988, p 910-911, O ROUSSEAU, "Autour de jubile du mouvement liturgique 1909-1959," in *Questions liturgiques et paroissiales*, 40 (1959), pp 203-217

the diocese. At the diocesan seminary, Bishop Sarto ensured the promotion of sacred music among his seminarians by personally forming the seminary's *schola cantorum* and teaching courses on sacred music.¹³ As Cardinal Sarto, and Patriarch of Venice, he was consulted by the Congregation for Sacred Rites for the purpose of updating regulations on sacred music.¹⁴ Although such an instruction never came to fruition, much of the content of his lengthy *votum* was incorporated into *Tra le sollecitudini*, promulgated only three months after Pius X's papal election in 1903.¹⁵

The principal purpose of the *motu proprio Tra le sollecitudini* was to provide a “juridical code of sacred music,” norms pertaining to singing in Church and the restoration of Gregorian chant.¹⁶ Affirming that sacred music is an integral part of the liturgy, *Tra le sollecitudini* recognized the importance of intelligibility and participation on the part of the faithful, albeit largely in a passive mode (n. 1). The preeminent place of Gregorian chant, “the supreme model for sacred music,” and the exclusive use of Latin (n. 7) were affirmed. While the pipe organ was permitted, the use of the piano or other “noisy or frivolous instruments” was strictly excluded (nn. 18-19). Similarly, women were to be excluded from

¹³ R. F. HAYBURN, *Papal Legislation on Sacred Music 95 A.D. to 1977 A.D.*, Collegeville, MN, Liturgical Press, 1977, pp. 195-198 (=HAYBURN, *Papal Legislation on Sacred Music*).

¹⁴ The anticipated instruction would have replaced the regulations promulgated in 1884. See CONGREGATION FOR SACRED RITES, Regulations to remedy abuses in Church music for the bishops of Italy *Ordinatio quoad sacram musicam*, 25 September 1884, in *ASS*, 17 (1884), pp. 340-349, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 137-140.

¹⁵ A translation of Cardinal G. Sarto's *votum* and detailed comparison of both texts can be found in HAYBURN, *Papal Legislation on Sacred Music*, pp. 205-212, 220-231

¹⁶ PIUS X, Apostolic letter *motu proprio* on the restoration of sacred music *Tra le sollecitudini*, 22 November 1903, in *ASS*, 36 (1903-1904), pp. 329-339, English translation in R. K. SEASOLTZ, *The New Liturgy, A Documentation, 1903-1965*, New York, Herder and Herder, 1966, pp. 3-10 (=SEASOLTZ, *The New Liturgy*). The original promulgated text is in Italian, although a Latin text was also published in *ASS*, 36 (1903-1904), pp. 387-395. See also CONGREGATION FOR SACRED RITES, Decree on the application of the *motu proprio Tra le sollecitudini*, 8 January 1904, in *ASS*, 36 (1903-1904), pp. 426-427, English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 235.

choirs, as only men “of known piety and probity of life” could be admitted to this liturgical office (n. 14). Should the need arise for the voice of sopranos, these parts were to be taken by boys, “according to the most ancient usage of the church” (n. 13). Knowledge of Gregorian chant and sacred polyphony were to be cultivated in seminaries, through the formation of a *schola cantorum* and instruction on the principles and laws of sacred music throughout the seminary curriculum (nn. 25-26). Perhaps most significant of all, the liturgy should never be made to appear secondary to the service of music, as “music is merely a part of the liturgy and its humble handmaid” (n. 23).

Although ambitious, the *motu proprio* is perhaps best remembered for a phrase, contained in the introduction, which became the cornerstone of the liturgical movement:

It being our ardent desire to see the true Christian spirit restored in every respect and be preserved by all the faithful, we deem it necessary to provide before everything else for the sanctity and dignity of the temple, in which the faithful assemble for the object of acquiring this spirit from its foremost and indispensable fount, which is the active participation in the holy mysteries and in the public and solemn prayer of the Church.

Despite recognizing the importance of active participation, the greater part of the *motu proprio* concerns the participation of the faithful in a more passive mode, by listening attentively so as to be “better disposed to receive the fruits of grace associated with the celebration of the most holy mysteries” (n. 1). Nevertheless, Pius X’s words served as a crucial catalyst for the liturgical movement and Dom Beauduin, in particular, as its principal and earliest proponent.¹⁷

¹⁷ Quitslund, a biographer of Beauduin, makes the following observation. “It is highly questionable that Pius X really envisages all Beauduin did with the now famous phrase, but his explanation certainly was not contrary to the principles for which the great and saintly pontiff stood” (S A QUITSLUND, *Beauduin: A Prophet Vindicated*, New York, Newman Press, 1973, p. 22). Beauduin’s only monograph, *La piété de l’Église*, reveals his indebtedness to Pius X’s *Tra le sollicitudin*. See L. BEAUDUIN, *Liturgy the Life of the Church*, trans V. MICHEL, Collegetville, MN, Liturgical Press, 1929.

By means of a second *motu proprio*, Pius X established a pontifical commission to oversee the revision of new editions of Gregorian chant books.¹⁸ The work of revision was entrusted to the Benedictine monastery of Solesmes, while the newly-formed pontifical commission was to provide oversight and the necessary approbation. Once approved, these new liturgical books would serve as the new typical editions, replacing the use of all earlier books of chant. Rigorous standards were established by the Congregation for Sacred Rites for various printers to follow in the publication of these liturgical books, principally to ensure that reproductions strictly conformed to the Vatican typical editions.¹⁹ Between 1905 and 1912, several new books of chant were promulgated by the Congregation for Sacred Rites, including, most notably, the *Kyriale* in 1905, the *Graduale Romanum* in 1907, and the *Antiphonale* in 1912.²⁰ With the publication of these new typical editions of Gregorian chant

¹⁸ PIUS X, Apostolic letter *motu proprio* on the publication of the Vatican editions of Gregorian chant books *Col nostro*, 25 April 1904, in *ASS*, 36 (1904), pp. 586-590, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 256-257.

¹⁹ See CONGREGATION FOR SACRED RITES, Decree on the printing of the Vatican edition of chant books, 11 August 1905, in *ASS*, 38 (1905), pp. 114-116, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 286-287; *idem*, Decree containing directions for bishops on issuing permission for printing the *Graduale*, 8 April 1908, in *ASS*, 41 (1908), pp. 348-350, English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 288-289; *idem*, Instruction for printers and publishers on ensuring the unity of melodies in chant books, 27 November 1908, in *AAS*, 1 (1909), pp. 159-160, English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 289, *idem*, Decree on the publication of chants for the proper offices of any church or institute, 24 March 1909, in *AAS*, 1 (1909), pp. 293-294, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 289-290; *idem*, Decree providing norms for the publication of liturgical books, 17 May 1911, in *AAS*, 3 (1911), pp. 242-243, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 290-291; *idem*, Decree providing direction for the printing of the Propers of Offices and Masses, 3 June 1914, in *AAS*, 6 (1914), p. 316; English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 291.

²⁰ (1) CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Kyriale*, 14 August 1905, in *ASS*, 38 (1905-1906), pp. 240-241, English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 266; (2) CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Graduale Romanum*, 7 August 1907, in *ASS*, 41 (1908), pp. 290-291, English translation in HAYBURN, *Papal Legislation on Sacred Music*, pp. 267-268; *Graduale Romanum Sacrosanctae Ecclesiae Romanae de Tempore et de Sanctis Ss.mi D.N. Pii X Pontificis Maximi iussu restitutum et editum, cui addita sunt festa novissima*, Rome, Typis Polyglottis Vaticanis, 1908; (3) CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Antiphonale*, 8 December 1912, in *AAS*, 4 (1912), p. 727, English translation in HAYBURN, *Papal Legislation on Sacred Music*, p. 271; *Antiphonale Sacrosanctae Romanae Ecclesiae pro diurnis Horis SS. D.N. Pii X Pontificis Maximi iussu restitutum et editum*. Rome, Typis Polyglottis Vaticanis, 1912.

– the first of their kind – Pius X’s desire that Gregorian chant be restored and made accessible for use among the faithful was effectively fulfilled.

1.1.2 – Holy Communion

Frequent reception of communion by the faithful at the beginning of the twentieth century was rare. Due to various influences, many believed that few had the proper intention or necessary disposition to receive communion frequently. Reception of communion for many, therefore, was limited to fulfillment of the Easter duty, that is, the obligation to receive communion at least once a year (cf. *CIC/17*, cc. 859-861; *CIC/83*, c. 920; *CCEO*, cc. 708, 881). The decree *Sacra Tridentina Synodus* sought to reverse this practice by encouraging frequent and daily communion, “a practice most earnestly desired by Christ our Lord and the Catholic Church” (n. 1).²¹ The decree specified that those who receive communion should be free from mortal sins with the intention of not sinning in the future (n. 3), in addition to possessing the proper intention, namely, to not approach the altar out of routine or vain-glory, but with a desire to please God, to be more closely united with him, and to have recourse to the Eucharist as a remedy for defects and weaknesses (n. 2). To ensure that the faithful were not deterred from this objective, confessors were instructed not to dissuade anyone from frequent communion (n. 5). Indeed, pastors, confessors and preachers were told to exhort the faithful to receive communion frequently and with zeal (n. 6). Frequent and daily communion was to be promoted especially in religious institutes, seminaries, and other Christians establishments which care for the young (nn. 7-8).

During the pontificate of Pius X, the age of admission to first communion was also clarified. By means of the decree *Quam singulari*, the age of discretion and the age of reason

²¹ SACRED CONGREGATION OF THE COUNCIL, Decree on the daily reception of communion *Sacra Tridentina Synodus*, 22 December 1905, in *ASJ*, 38 (1905), pp 400-406, English translation in SEASOLTZ, *The New Liturgy*, pp 11-15

were deemed to be coterminous expressions.²² The age of discretion required both for confession and first communion is the time when the child is presumed to have the use of reason, at about the seventh year of age (n. 1). A “complete and perfect knowledge” of Christian doctrine was not necessary (n. 2). Rather, to be admitted to confession and first communion, children must be able to (1) understand, *according to their capacity*, the mysteries of faith which are necessary for salvation, (2) distinguish the Eucharist from common food, and (3) approach the altar with the devotion *becoming of their age* (n. 3). The practices of not admitting children to confession or not administering viaticum and extreme unction to children in need were expressly condemned (nn. 7-8).

Two final provisions concerning the reception of communion are worth noting. First, the Eucharistic fast was mitigated for those who were sick or unable to fast.²³ Those who had been sick or confined to a bed for a month without hope of a speedy recovery could receive communion, even if they had something to drink, once or twice a month. Similarly, the sick living in a religious house or place in which the Blessed Sacrament was habitually reserved or which enjoyed the privilege of having Mass in a domestic oratory could receive communion once or twice a week without fasting from liquids. Second, Pius X permitted Latin and Eastern Catholics to receive communion in each other’s Church *sui*

²² SACRED CONGREGATION OF THE SACRAMENTS, Decree on the age of admission to first communion *Quam singulari*, 8 August 1910, in *AAS*, 2 (1910), pp. 577-583, English translation in SEASOLTZ, *The New Liturgy*, pp. 11-15.

²³ SACRED CONGREGATION OF THE COUNCIL, Decree modifying the fast for the infirm *Post editum*, 7 December 1906, in *AAS*, 39 (1906), pp. 794-795. The same Congregation ruled that *decumbentes* included not only those who were actually confined to their beds but all those who, because of the peculiar nature of their sickness, could not remain in bed, or those who were able to rise for a few hours each day, provided that the physician judged they could not observe the fast. See *idem*, Declaration concerning the meaning of *decumbentes*, 6 March 1907, in *AAS*, 40 (1907), p. 344. For more information, see T.F. ANGLIN, *The Eucharistic Fast: An Historical Synopsis and Commentary*, Canon Law Studies, n. 124, Washington, DC, The Catholic University of America, 1941, pp. 46-47.

iuris.²⁴ In addition to facilitating frequent communion, this provision also gave Latin Catholics who attended the divine liturgy of an Eastern Church *sui iuris* an opportunity to receive communion in the forms of both leavened bread and wine. As this was not yet permitted in the Latin Church itself, communion under both species became an important objective of the later liturgical movement.²⁵

1.1.3 – Reform of Liturgical Books

Although attempted earlier by Benedict XIV, the first significant revision of the breviary since its initial promulgation occurred by means of Pius X's apostolic constitution *Divino afflatu* in 1911.²⁶ The revision of the psalter was seen as the first step of a much larger reform of both the breviary and missal. Pius X acknowledged the need for liturgical changes and lamented the fact that many years of careful study were required before the liturgy "can appear purified of the imperfections brought by time, newly resplendent with dignity and fitting order." The changes Pius X identified consisted of the following: (1) "restoring the calendar of the Universal Church to its original arrangement and style, retaining meanwhile the splendid richness which the marvelous fruitfulness of the Church, the Mother of the Saints, has brought to bear upon it;" (2) "utilizing appropriate passages of Scripture, of the Fathers and Doctors, after having reestablished the authentic text;" (3) "prudently correcting

²⁴ PIUS X, Apostolic constitution on Catholics receiving communion in a different Church *sui iuris Tradita ab antiquis*, 14 September 1912, in *AAS*, 4 (1912), pp. 609-617.

²⁵ HUELS, "Participation by the Faithful in the Liturgy," pp. 614-615.

²⁶ PIUS X, Apostolic constitution approving the new arrangement of the psalter in the Roman Breviary *Divino afflatu*, 1 November 1911, in *AAS*, 3 (1911), pp. 633-638, English translation in SEASOLTZ, *The New Liturgy*, pp. 22-35. Benedict XIV (1740-1758) had appointed a commission to examine a reform of the breviary, yet his death prevented the promulgation of any official text. See P.-H. BATIFFOL, *History of the Roman Breviary*, trans. A. BAYLAY, London, Longmans, Green and Co., 1912, pp. 236-283.

the lives of the Saints according to documentary evidence;” and (4) “perfecting the arrangement of numerous points of the liturgy, eliminating superfluous elements.”²⁷

Despite the need for further revision, Pius X authorized the use of a revised psalter.²⁸ The revised psalter was reordered to facilitate the weekly recitation of all 150 psalms and to harmonize the weekly psalter and the cycle of biblical readings without diminishing the sanctoral cycle.²⁹ The daily obligation of various supplemental offices, such as the Office of the Blessed Virgin Mary and of the dead, the penitential psalms, gradual psalms, and votive Offices, were entirely suppressed. The office of Sunday was raised in rank and dignity, taking precedence over many feasts of saints. Pius X explicitly forbade the use of the earlier arrangement of the psalter, insisting that its continued use failed to satisfy the canonical obligation of chanting or reciting the Divine Office. Although a comprehensive reform of the breviary was not yet complete, a new *editio typica* was promulgated in 1914, incorporating the revised psalter and the rubrics of both *Divino afflatu* and *Abhinc duos annos*.³⁰

²⁷ PIUS X, Apostolic letter *motu proprio* concerning further revision of the Divine Office *Abhinc duos annos*, 23 October 1913, in *AAS*, 5 (1913), pp. 449-451, English translation in J.J. MEGIVERN, *Worship & Liturgy*, Wilmington, NC, Consortium Books, 1978, pp. 41-42.

²⁸ CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the psalter for use with the Roman Breviary, 15 November 1911, in *AAS*, 4 (1912), pp. 83-84; *Psalterium Breviarum Romani cum Ordinario divini Officii iussu SS. D.N. Pp. X novo ordine per hebdomadam dispositum et editum*, Rome, Typis Polyglottis Vaticanis, 1911.

²⁹ For a table containing the distribution of the psalms in the weekly psalter of the breviary, as revised by Pius X, see S. CAMPBELL, *From Breviary to Liturgy of the Hours: The Structural Reform of the Roman Office 1964-1971*, Collegeville, MN, Liturgical Press, 1995, p. 19. For a comparison with earlier editions of the breviary, see E. BURTON and E. MYERS, *The New Psalter and its Use*, New York, Longmans, Green and Co., 1912, pp. 211-220.

³⁰ CONGREGATION FOR SACRED RITES, Decree promulgating the new *editio typica* of the Roman Breviary, 25 March 1914, in *AAS*, 6 (1914), p. 672; *Breviarium Romanum ex decreto Sacrosancti Concilii Tridentini restitutum, S. Pp. V Pontificis Maximi iussu editum aliorumque Pontificum cura recognitum, Pp. Papae X auctoritate reformatum*, Rome, Typis Polyglottis Vaticanis, 1914.

Two additional liturgical books were revised during the pontificate of Pius X. Firstly, a new *editio typica* of the *Martyrologium Romanum* was promulgated, containing only minor rubrical changes and the names of saints canonized since 1748.³¹ Secondly, a new *editio typica* of the *Rituale Romanum* was promulgated, although it contained no significant revisions.³² It would remain the task of Benedict XV, Pius X's successor, to see to completion the revision and eventual promulgation of additional liturgical books initiated during the pontificate of Pius X.

1.1.4 – The Congregation for Sacred Rites

The competencies of the Congregation for Sacred Rites were defined only twice before the promulgation of the 1917 Code of Canon Law. The first occurred at the Congregation's creation by Sixtus V in 1588³³ and the second by Pius X in 1908.³⁴ The competencies of the Congregation of Sacred Rites were defined as follows:

1. This Sacred Congregation has the right of providing for and establishing all those things which pertain proximately to the sacred rites and ceremonies of the Latin Church, but not those which are more widely referred to sacred rites, such as the rights of precedence and other matters of this kind, concerning which there may be dispute, whether the judicial order or the disciplinary form, that is, *in linea disciplinari*, as it is called, to be observed.
2. Moreover, to this Congregation belong especially vigilance that the sacred rites and ceremonies be diligently observed in the celebration of Mass, in the administration of the sacraments, in the performance of the Divine Office, and finally in all that pertains to the

³¹ The promulgation of the revised *Martyrologium Romanum* presented several initial difficulties, necessitating subsequent variations and additions. It was first promulgated by means of a decree on 23 April 1913 (*AAS*, 5 [1913], p. 278), subject to additions and variations shortly thereafter (*AAS*, 6 [1914], pp. 10-12), and repromulgated on 14 January 1914 (*Martyrologium Romanum Gregori XIII iussu editum, Urbani VIII et Clementis X auctoritate recognitum ac deinde anno 1749 Benedicti XIV opera et studio emendatum et auctum. Editio typica Vaticana auspice SS. D.N. Pio Papa X confecta, in qua Sanctorum et Beatorum exstant elogia a S. Rituum Congregatione ad haec usque tempora adprobata*, Rome, Typis Polyglottis Vaticanis, 1914).

³² CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Rituale Romanum*, 11 June 1913, in *AAS*, 5 (1913), p. 434; *Rituale Romanum Pauli V Pontificis Maximi editum, a Benedicto XIV et a Pio X castigatum et auctum, cui accedunt Benedictionum et Instructionum appendices duae*, Regensburg and Rome, 1913.

³³ SIXTUS V, Apostolic constitution reorganizing the Roman Curia *Immensa aeterni Dei*, 22 January 1588, in *Bullarium Romanum*, vol. 8, pp. 985-999.

³⁴ For a brief history of the reorganization of the Roman Curia, with special attention to the foundation of the Congregation for the Discipline of the Sacraments, see A. WARD, "The Centenary of St. Pius X's *Sapienti consilio* and of his founding the Congregation for the Discipline of the Sacraments, in *Notitiae*, 45 (2008), pp. 205-216.

worship of the Latin Church; concession of opportune dispensations, grant of insignia and honorary privileges, both those that are personal and temporary and those that are local and perpetual, which may refer to sacred rites or ceremonies, and care that abuses do not creep into these.

3. Lastly, it must carry out all those things which pertain to the beatification and canonization of Saints or to Sacred Relics (§I, n 8°).³⁵

Although comprehensive, *Sapienti consilio* omitted reference to the Congregation's competence over the inspection, correction, and approval of new liturgical books. This was especially important in light of the number of revised liturgical books promulgated during Pius X's pontificate. Further particular norms, therefore, were promulgated in a revised *regolamento* of the Roman Curia which contained explicit reference to this competency.³⁶ Both *Sapienti consilio* and the *Regolamento* of 1908 served as sources for the 1917 Code's treatment of the competencies of the Roman Curia. In fact, c. 253, dealing with the competencies of the Congregation for Sacred Rites, repeats, with only slight variation, the words of *Sapienti consilio*.

1.2 – Pope Benedict XV: 1914-1922

Benedict XV's relatively short papacy, coupled with the challenges of maintaining peaceful diplomatic relations in the midst the First World War, resulted in relatively little liturgical innovation during his pontificate. While it is true that Benedict XV “changed nothing of the reforms which Pius X initiated in the field of liturgical practice,” it is equally clear that Benedict XV did not substantially advance the liturgical movement.³⁷ In fact, J. Huels identifies one legislative development – permitting trination on All Souls Day – as a

³⁵ PIUS X, Apostolic Constitution on the reform of the Roman Curia *Sapienti consilio*, 29 June 1908, in *AAS*, 1 (1909), pp. 7-19, English translation in F.R. MCMANUS, *The Congregation of Sacred Rites*, Canon Law Studies, n. 352, Washington, DC, The Catholic University of America, 1954, p. 69

³⁶ *Ordo servandus in S. Congregationibus, Tribunalibus, Officiis Romanae Curiae*, 29 September 1908, in *AAS*, 1 (1908), pp. 36-108. The *AAS* contains both the original Latin and Italian translation.

³⁷ J.F. POLLARD, *The Unknown Pope: Benedict XV (1914-1922) and the Pursuit of Peace*, London, Geoffrey Chapman, 2000, p. 213.

setback to the liturgical reform.³⁸ Benedict XV's greatest contribution to the liturgical movement consisted, largely, of seeing to completion a number of projects initiated under his predecessor, principally, the revision of various liturgical books and the promulgation of the first *Codex Iuris Canonici*, indisputably his greatest legislative contribution.

1.2.1 – Reform of Liturgical Books

Carlo Braga correctly observes that Benedict XV “merely saw to completion the editions of certain liturgical books that had been begun under his predecessor.”³⁹ This was no small accomplishment, however, as successive pontiffs are free to initiate new projects or see to the completion of those initiated by their predecessors. In the case of Benedict XV, four liturgical books were revised and promulgated during his papacy. These revisions are relatively minor compared to the reforms which occurred following the Second Vatican Council. Firstly, a new *editio typica* of the *Antiphonale* was promulgated to conform to the new psalter of the *Breviarium Romanum*.⁴⁰ Secondly, a new *editio typica* of the *Missale Romanum*, reorganizing the sanctoral cycle with the addition of new feasts and memorials, appeared in 1920.⁴¹ Thirdly, a new edition of the *Memoriale Rituum* was promulgated in 1920. The *Memoriale Rituum* contains rubrics for the correct celebration of simplified sacred functions in minor churches, including the Feast of the Presentation of Jesus in the Temple, Ash

³⁸ HUELS, “Participation by the Faithful in the Liturgy,” p 615

³⁹ C BRAGA, “Presentation,” in C BRAGA and A BUGNINI (eds), *Documenta ad instaurationem liturgicam spectantia*, Rome, CLV-Edizioni Liturgiche, 2000, p xvi (=BRAGA, *Documenta*)

⁴⁰ CONGREGATION FOR SACRED RITES, Decree promulgating a new *editio typica* of the *Antiphonale*, 23 October 1919, in *Ephemerides liturgicae*, 34 (1920), pp 281-282, *Antiphonale Sacrosanctae Romanae Ecclesiae pro diurnis horis a Pio X restitutum et Benedicti XV auctoritate recognitum et evulgatum*, Rome, Typis Polyglottis Vaticanis, 1919

⁴¹ *Idem*, Decree promulgating a new *editio typica* of the *Missale Romanum*, 25 July 1920, in *AAS*, 12 (1920), pp 448-449, *Missale Romanum ex decreto Sacrosancti Concilii Tridentini restitutum, S. P. Pont. Max. iussu editum, aliorum Pontificum cura recognitum, a Pio X reformatum et S. S. M. D. N. Benedicti XV auctoritate evulgatum*, Rome, Typis Polyglottis Vaticanis, 1920

Wednesday, and the Easter Triduum.⁴² Finally, a new edition of the *Martyrologium Romanum* was promulgated in 1922, yet this edition was severely criticized on account of unjustifiable revisions.⁴³ For the first time since the sixth century, the number of prefaces in the Roman Missal was increased with the addition of those for the Requiem Mass and the feast of St. Joseph in 1919.⁴⁴ Pius XI followed suit with the addition of prefaces for the feast of Christ the King in 1925⁴⁵ and the Mass of the Sacred Heart in 1928.⁴⁶

1.2.2 – *Codex Iuris Canonici*

Recalling the commendable efforts of his predecessors to prepare authentic collections of ecclesiastical law, Pius X had acknowledged the ever present need to harmonize and synthesize the sacred canons into a single volume of canon law.⁴⁷ Modifications were to be introduced to correspond to contemporary needs, while abrogated or obsolete legislation was to be singled out and removed. To accomplish this task, Pius X established a pontifical commission under the direction of Pietro Cardinal Gasparri who

⁴² *Idem*, Decree promulgating the *editio typica* of the *Memoriale Rituum*, 14 January 1920, in *AAS*, 12 (1920), p. 448; *Memoriale Rituum pro aliquibus praestantioribus functionibus persolvendis in minoribus Ecclesiis, Benedicti XIII Pontificis Maximi iussu editum, Benedicti Papae XV auctoritate recognitum*, Rome and Ratisbon, sumptibus et typis Friderici Pustet, 1920.

⁴³ *Idem*, Decree promulgating the *editio typica altera* of the *Martyrologium Romanum*, 11 January 1922, in *Ephemerides liturgicae*, 38 (1924), p. 45. See also H. QUENTIN, "La correction du Martyrologe Roman," in *Analecta bollandiana*, 42 (1924), pp. 387-406.

⁴⁴ *Idem*, Decree prescribing the new preface for the Mass for the Dead, 9 April 1919, in *AAS*, 11 (1919), p. 190; *idem*, Decree prescribing the new preface for the feast of St. Joseph, 9 April 1919, in *AAS*, 11 (1919), p. 191.

⁴⁵ PIUS XI, Encyclical letter on the kingship of Christ *Quas primas*, 11 December 1925, in *AAS*, 17 (1925), pp. 593-610, English translation in SEASOLTZ, *The New Liturgy*, pp. 36-46; CONGREGATION FOR SACRED RITES, Decree prescribing the texts for the celebration of the Divine Office and Mass of the feast of Christ the King, 12 December 1925, in *AAS*, 17 (1925), pp. 655-668.

⁴⁶ *Idem*, Encyclical letter on the reparation due to the Sacred Heart *Miserentissimus Redemptor*, 8 May 1928, in *AAS*, 20 (1928), pp. 165-178, English translation in SEASOLTZ, *The New Liturgy*, pp. 47-57; CONGREGATION FOR SACRED RITES, Decree prescribing the tests for the celebration of the Divine Office and Mass of the Sacred Heart of Jesus, 29 January 1929, in *AAS*, 21 (1929), pp. 44-77.

⁴⁷ PIUS X, Apostolic letter *motu proprio* on the codification of canon law *Arduum sane munus*, 19 March 1904, in *AAS*, 36 (1904), pp. 549-551, English translation in V.A. YZERMANS (ed.), *All Things in Christ: Encyclicals and Selected Documents of Saint Pius X*, Westminster, MD, Newman Press, 1954, pp. 212-214.

served as its secretary for the duration of the codification process.⁴⁸ Although Pius X would not have the pleasure of seeing to completion the work he had initiated, the *Codex Iuris Canonici* was eventually promulgated by Benedict XV in 1917.⁴⁹

While Benedict XV had the privilege of promulgating the Code, he unreservedly gave all the credit to his predecessor, Pius X. After summarizing the need for a codified revision of canon law, Benedict XV indicated the following to the assembled consistory of cardinals, 4 December 1916:

Divine Providence has ordained that the glory of rendering this immense service to the Church should fall to Pius X our predecessor of saintly memory. You are aware, Venerable Brethren, with what alacrity he set himself to this truly gigantic task at the very beginning of his pontificate, and with what zeal and perseverance he pursued it during the whole time that he held the reins of government. And though it was not granted to him to complete his undertaking, nevertheless, he alone must be accounted to be the author of the Code, and therefore will his name be handed down to posterity by the side of those Pontiffs of greatest fame in the annals of Canon Law, such as Innocent III, Honorius III and Gregory IX. For us it is enough to be able to promulgate that which he accomplished.⁵⁰

Just as a special commission of cardinals had been entrusted with the interpretation of the decrees of the Council of Trent – the Sacred Congregation of the Council – Benedict XV, likewise, established a commission with “the exclusive right of authentically interpreting the canons of the Code, upon consultation, however, in matters of greater importance, with the

⁴⁸ Pietro Gasparri (1852-1934) played a very important role in the drafting of the 1917 Code of Canon Law. At the time of his appointment to the Pontifical Commission, he had already established himself as a preeminent canonist at the *Institut Catholique de Paris*, having published comprehensive studies on the canons for marriage (*Tractatus canonicus de matrimonio*, 2 vols., Paris, Secrétariat de l'Institut catholique, 1891), ordination (*Tractatus canonicus de sacra ordinatione*, 2 vols., Paris, Delhomme et Brigue, 1893-1894), and the Holy Eucharist (*Tractatus canonicus de sanctissima Eucharistia*, 2 vols., Paris, Delhomme et Brigue, 1897). Gasparri also assembled a collection of all the sources used for the codification of the 1917 Code, including all the texts *ex toto vel ex parte* of councils, papal documents, and congregations, insofar as the Code referred to them, excluding the texts of the *Corpus Iuris Canonici* and the Council of Trent as these were readily available (*Codices iuris canonici fontes*, 9 vols., vols 7-9 ed. by I. SERÉDI, Rome, Typis Polyglottis Vaticanis, 1926-1939)

⁴⁹ BENEDICT XV, Apostolic constitution promulgating the Code of Canon Law *Providentissima Mater Ecclesia*, 27 May 1917, in *AAS*, 9 (1917), pp. 5-8, English translation in PETERS, *The 1917 or Pio-Benedictine Code of Canon Law*, pp. 21-24. The Code went into force on 19 May 1918.

⁵⁰ *Idem*, Allocution to the Consistory of Cardinals concerning the promulgation of the Code of Canon Law *Quandoquidem quae*, 4 December 1916, in *AAS*, 8 (1916), pp. 465-478, English translation in R. MERRY DEL VAL, *Memories of Pope Pius X*, Westminster, MD, Newman Press, 1951, pp. 59-60.

Sacred Congregation within whose peculiar province the matter is proposed for decision to the Commission lies.”⁵¹ The *motu proprio* required no approbation of the Roman Pontiff incident to the commission’s decisions. Furthermore, the authentic interpretations issued by this commission had the same force as the law itself (cf. *CIC/17*, c. 17).⁵² An early decision of the commission determined that replies would only be given to doubts proposed by ordinaries and major superiors of orders and religious congregations and not by individuals, except through their proper ordinary.⁵³

Canon 2 of the 1917 Code, much like c. 2 of the 1983 Code, specified that liturgical matters, for the most part, are excluded from the Code. Despite this acknowledgment, the 1917 Code included considerable liturgical legislation in the first part of the third book, *De rebus*, legislating on such things as the sacraments (cc. 731-1143), sacramentals (cc. 1144-1153), sacred places and times (cc. 1154-1254), and divine worship (cc. 1255-1306). Furthermore, the Code required that the rites prescribed in the approved liturgical books be observed for the celebration of Mass (c. 818), the recitation of the Divine Office (c. 135), and in the administration of the sacraments (c. 733, §1) and sacramentals (c. 1148, §1). Other sources of liturgical law consist of the norms contained in the liturgical books themselves:

⁵¹ *Idem*, Apostolic letter *motu proprio* creating the Code Commission and the methods of making amendments to the Code *Cum iuris canonica*, 15 September 1917, in *AAS*, 9 (1918), pp. 483-484, English translation in *CLD*, 1, pp. 55-57

⁵² Private collections of these authentic interpretations, including other responses of various congregations, are available. See E. REGATILLO (ed.), *Interpretatio et iurisprudentia Codicis iuris canonici*, 3rd ed., Santander, Sal Terrae, 1953; C. SARTORI and B. BELLUCO (eds), *Enchiridion canonicum seu Sanctae Sedis responsiones*, 11th ed., Rome, Pontificium Athenaeum Antonianum, 1963. For a comprehensive overview of the principles of authentic interpretation, see J.R. SCHMIDT, *The Principles of Authentic Interpretation in Canon 17 of the Code of Canon Law*, Canon Law Studies, n. 141, Washington, DC, Catholic University of America, 1941.

⁵³ COMMISSION FOR THE INTERPRETATION OF THE CODE OF CANON LAW, Reply concerning responses to private questions, 9 December 1917, in *AAS*, 10, p. 77, English translation in *CLD*, 1, p. 57. Maroto argues that superiors general and provincials of women religious are included in this decision (cf. *CIC/17*, c. 490). He suggests, however, that they should act through their ordinary, papal legate, the Cardinal Protector, or their procurator general (cf. *CIC/17*, c. 570). He holds the same view concerning societies living in common without vows (cf. *CIC/17*, cc. 673, 675). See P. MAROTO, “Annotationes,” in *Commentarium pro Religiosis*, 1 (1920), pp. 35-37.

(1) the rubrics which specify the manner of celebrating the liturgical rites, or (2) the *praenotanda*, that is, the norms prefacing the liturgical books, or the introductions to their various chapters. Finally, in addition to the laws contained in the liturgical books and the Code, the Holy See issues numerous documents, of varying juridic significance, dedicated to liturgical matters. All of these sources constitute the *ius liturgicum*, that is, the body of law found outside the Code and to which *CIC/17*, c. 2 makes reference.

1.2.3 – Sacred Scripture

Although Benedict XV did not initiate any notable liturgical reform, he dedicated two monumental encyclicals to the topic of sacred scripture, thereby contributing positively to the improvement of preaching at liturgical celebrations.⁵⁴ The first encyclical, *Humani generis redemptionem*, was addressed to the bishops of the world and concerned effective preaching of the Word of God.⁵⁵ Benedict XV identifies various causes for ineffective preaching and encourages bishops to ensure that those entrusted with this function are worthy, provided suitable instruction, and duly prepared. St. Paul, the Apostle, is held up as the perfect preacher and model for all those entrusted with this sacred function. The Sacred

⁵⁴ Benedict XV was not the first pope of the modern era to address this issue, as his immediate predecessors had each addressed the study and interpretation of sacred scripture and had taken decisive action to ensure the promotion of biblical studies. See LEO XIII, Encyclical letter on the study of sacred scripture *Providentissimus Deus*, 18 November 1893, in *AAS*, 26 (1893-1894), pp. 269-292, English translation in C. CARLEN (ed.), *The Papal Encyclicals*, 5 vols., Wilmington, NC, McGrath Pub. Co., 1981, vol. 2, pp. 325-339 (=CARLEN, *Papal Encyclicals*); PIUS X, Encyclical letter on the doctrine of the Modernists *Pascendi Dominici gregis*, 8 September 1907, in *AAS*, 40 (1907), pp. 593-650, English translation in CARLEN, *Papal Encyclicals*, vol. 3, pp. 71-98. Leo XIII erected the Pontifical Biblical Commission to settle disputed questions in an authoritative manner (LEO XIII, Apostolic letter erecting the Pontifical Biblical Commission *Vigilantiae*, 30 October 1902, in *AAS*, 35 [1902-1903], pp. 234-238), while Pius X established the Pontifical Biblical Institute to further the discipline of biblical studies (PIUS X, Apostolic letter establishing the Pontifical Biblical Institute *Vinea electa*, 7 May 1909, in *AAS*, 1 [1909], pp. 447-449). Decisions of Pontifical Biblical Commission between 1905 and 1941 can be found, in English translation, in *Rome and the Study of Scripture: A Collection of Papal Enactments on the Study of Holy Scripture together with the Decision of the Biblical Commission*, 4th rev. ed., St. Meinrad, IN, Grail Publication, 1946, pp. 108-138.

⁵⁵ BENEDICT XV, Encyclical letter on preaching the Word of God *Humani generis redemptionem*, 15 June 1917, in *AAS*, 9 (1917), pp. 305-317, English translation in CARLEN, *Papal Encyclicals*, vol. 3, pp.153-159.

Congregation of the Consistory subsequently issued a complementary decree to provide juridical expression to the norms proposed in the encyclical⁵⁶

The second encyclical, *Spiritus Paraclitus*, issued to commemorate the fifteenth centenary of St. Jerome's death, provided a further opportunity to offer practical counsels concerning the reverent study and promotion of sacred scripture. A good portion of this lengthy encyclical recalls the contribution of St. Jerome and places his teachings in contradistinction with modern views and hermeneutical approaches to sacred scripture. Benedict XV reiterated traditional teaching concerning the inspiration, authority, and inerrancy of sacred scripture, in addition to condemning dangerous tendencies influencing biblical studies. Perhaps most significant of all, *Spiritus Paraclitus* encouraged all, including the lay faithful, to read frequently from sacred scripture: "Hence, as far as in us lies, we, Venerable Brethren, shall, with St. Jerome as our guide, never desist from urging the faithful to read daily the Gospels, the Acts and the Epistles, so as to gather thence food for their souls" (n. 43). Translations of the bible were prepared in many countries, thus ensuring further accessibility and intelligibility among the faithful.⁵⁷

1.2.4 – Celebration of Mass on All Souls Day

As early as 1748, Benedict XIV permitted priests of the Latin Rite to celebrate Mass three times on All Souls Day in the kingdoms of Portugal and Spain.⁵⁸ Leo XIII expressly extended this right to the entire region of Latin America in 1897, due largely in part to the

⁵⁶ SACRED CONGREGATION OF THE CONSISTORY, Decree providing norms for sacred preaching, 28 June 1917, in *AAS*, 9 (1917), pp 335-341, English translation in *CLD*, 1, pp 622-630

⁵⁷ See F HAYWARD, *Un pape méconnu: Benoît XV*, Tournai, Castermann, 1955, p 20, W H PEIERS, *The Life of Benedict XV*, Milwaukee, WI, Bruce Pub Co, 1959, p 216

⁵⁸ BENEDICT XIV, Apostolic constitution concerning trination in the kingdoms of Portugal and Spain *Quot expensis*, 26 August 1748, in *Fontes*, vol 2, pp 169-179, n 391

consequences of colonization.⁵⁹ Shortly after the beginning of the First World War, Benedict XV extended this privilege to all Latin rite priests for two reasons: (1) the diminished income of Mass foundations for the deceased, and (2) the spiritual well-being of the immense number of young men involved in the war. Priests were permitted to celebrate Mass three times on All Souls Day, provided that the second Mass was offered for all the faithful departed and the third Mass for the intentions of the Holy Father.⁶⁰ Subsequent decrees of the Congregation for Sacred Rites provided the proper texts to use for the second and third Masses, along with clarifying which text to use when only one Mass was celebrated.⁶¹ Later editions of the *Missale Romanum* included these provisions in the rubrics for All Souls Day. Similarly, when the 1917 Code of Canon Law was promulgated, c. 806, §1, expressly included the faculty to trinate on All Souls Day.

Incidentally, explicit reference to this faculty is conspicuously absent from the corresponding canon in the 1983 Code of Canon Law (c. 905). This omission led to conflicting opinions among canonists as to whether it was still permitted for a priest to celebrate Mass without pastoral need three times on All Souls Day.⁶² This issue was effectively resolved by the 2000 *General Instruction of the Roman Missal*, which expressly states that priests have the faculty to trinate on All Souls Day, provided that the celebrations take

⁵⁹ LEO XIII, Apostolic constitution concerning trination in Latin America *Trans oceanum*, 18 April 1897, in *Fontes*, vol 3, pp 512-515, n 633

⁶⁰ BENEDICT XV, Apostolic constitution permitting trination on All Souls Day *Incruentum*, 10 August 1915, in *AAS*, 7 (1915), pp 401-404

⁶¹ CONGREGATION FOR SACRED RITES, Decree providing additional texts for use on All Souls Day, 11 August, in *AAS*, 7 (1915), pp 422-423, *idem*, Response to a doubt concerning which texts to use on All Souls Day, 28 February 1917, in *AAS*, 9 (1917), pp 186-187

⁶² Huels argued that the provision to trinate on All Souls Day was abrogated with the promulgation of the 1983 Code. He acknowledges that this may have been unintentional and concludes that the legislator must clarify or correct this in a subsequent edition of the *GIRM*. See J M HUELS, "The Most Holy Eucharist," in *CLSA Comm2*, p 1101. See also J M HUELS, "The Most Holy Eucharist," in *CLSA Comm1*, p 647. For an alternate opinion, see W H WOESTMAN, "Three Masses on all Souls' Day?", in *The Jurist*, 47 (1987), pp 521-531

place at different times, and the norms regarding the application of second and third Masses are observed (n. 204). Concerning the latter, *CIC/83*, c. 951, §1, specifies that, if a priest celebrates more than one Mass on the same day, apart from Christmas Day, he can only retain for himself the offering for one Mass. All other offerings are to be transmitted for the purposes determined by the ordinary.

The Congregation for Sacred Rites extended the faculty to celebrate three Masses on All Souls Day to the priests of the Ambrosian rite within the Archdiocese of Milan.⁶³ Interestingly, when asked whether the faculty extended to priests of Eastern Churches *sui iuris*, the Holy See responded in the negative and concluded that, as proposed, such an extension was not expedient (*proponitur non expedire*).⁶⁴ The celebration of the Divine Liturgy more than once on the same day does not belong to the ancient Eastern tradition. The *CCEO* contains no provision for bination or trination, and a recent instruction from the Congregation for Eastern Churches indicates that, as a rule, “presbyters should especially avoid celebrating the Divine Liturgy more than once a day without a specific pastoral reason. Practice deviating from this principle must be authorized and controlled by the episcopal authority” (n. 65).⁶⁵

⁶³ CONGREGATION FOR SACRED RITES, Decree extending the faculty for trination on All Souls Day to priests of the Ambrosian rite, 10 October 1915, in *AAS*, 7 (1915), p. 497.

⁶⁴ SACRED CONGREGATION *PROPOGANDA FIDE* FOR AFFAIRS OF THE ORIENTAL RITE, Response concerning the extension of trination on All Souls’ Day to Eastern Churches, 22 March 1916, in *AAS*, 8 (1916), pp. 104-105, English translation in *CLD*, 4, p. 257.

⁶⁵ CONGREGATION FOR THE EASTERN CHURCHES, Instruction Applying of the Liturgical Prescriptions of the Code of Canons of the Eastern Churches, 6 January 1996, Vatican City, Libreria Editrice Vaticana, 1996.

1.3 – Pope Pius XI: 1922-1939

Being known as the pope of the inter-war years reveals a rather notable quality of the pontificate of Pius XI, namely, the importance of diplomacy in a world of rapidly changing social and political structures. As such, Pius XI is better known for his contributions to the doctrine on Christian marriage,⁶⁶ the Church's place in Nazi Germany,⁶⁷ the threat of atheistic communism,⁶⁸ and the reconstruction of the social order.⁶⁹ Nevertheless, Pius XI's strong papal endorsement of active participation in the liturgy was a welcomed gesture. Like those of his immediate predecessor, Pius XI's contributions to liturgical reform are fairly limited. They consist of the following examples.

1.3.1 – Gregorian Chant and Sacred Music

To mark the twenty-fifth anniversary of Pius X's *Tra le sollicitudini*, Pius XI issued the apostolic constitution *Divini cultus*, on Gregorian chant and sacred music.⁷⁰ Recognizing that the prescriptions of *Tra le sollicitudini* had not been observed in all places, Pius XI proposed new legislation to ensure the promotion and protection of the sacred liturgy. Those aspiring to the priesthood, whether in seminaries or in religious houses, were to be sufficiently instructed in Gregorian chant and other forms of sacred music daily (nn. 1-2). Similarly, those responsible for divine worship in basilicas and churches, or collegiate and conventual churches of religious, were to ensure that the Divine Office was carried out worthily,

⁶⁶ PIUS XI, Encyclical letter on Christian marriage *Casti connubii*, 21 December 1930, in *AAS*, 22 (1930), pp. 539-592.

⁶⁷ *Idem*, Encyclical epistle to the bishop of Germany on the place of the Catholic Church in the German Reich *Mit brennender Sorge*, 14 March 1937, in *AAS*, 29 (1937), pp. 145-167.

⁶⁸ *Idem*, Encyclical letter on atheistic communism *Divini Redemptoris*, 19 March 1937, in *AAS*, 29 (1937), pp. 65-106.

⁶⁹ *Idem*, Encyclical letter commemorating the fortieth anniversary of Leo XIII's *Rerum novarum*, *Quadragesimo anno*, 15 May 1931, in *AAS*, 23 (1931), pp. 177-228.

⁷⁰ *Idem*, Apostolic constitution on Gregorian chant and sacred music *Divini cultus*, 20 December 1928, in *AAS*, 21 (1928), pp. 33-41, English translation in SEASOLTZ, *The New Liturgy*, pp. 58-63

especially regarding chant (n. 3). Every cathedral chapter and religious community was to ensure the formation of a proper choir and utilize only those books of chant designated for official use (n. 4). Orchestral accompaniment was regarded as unsuitable for sacred purposes. *Divini cultus* affirms that “voices, rather than instruments, ought to be heard in the church: the voices of the clergy, the choir and the congregation” (n. 7). The organ, nevertheless, “by reason of its extraordinary grandeur and majesty,” was deemed a “worthy adjunct to the liturgy” (n. 8).

The active participation of the faithful, the cornerstone of the liturgical movement, received strong papal endorsement:

In order that the faithful may more actively participate in divine worship, let them be made once more to sing the Gregorian chant, so far as it belongs to them to take part in it. It is most important that when the faithful assist at the sacred ceremonies, or when pious sodalities take part with the clergy in a procession, they should not be merely detached and silent spectators, but filled with a deep sense of the beauty of the liturgy, should sing alternately with the clergy or the choir, as it is prescribed. If this is done, then it will no longer happen that people either make no answer at all to the public prayers – whether in the language of the liturgy or in the vernacular – or at best utter responses in a low and subdued manner (n. 9).

Although this may be considered as Pius XI’s most striking endorsement of the liturgical movement, it is not an isolated instance.

1.3.2 – *Missa dialogata*

One of the more frequent means of advocating active participation of the faithful was the *Missa dialogata*, or dialogue Mass. The celebration of a dialogue Mass was unique in that it encouraged the congregation to make the proper responses in unison in place of the acolyte, who had hitherto made the responses on their behalf. Permission to either introduce or at least tolerate this practice was made to the Congregation for Sacred Rites. Only one rescript was published in the *Acta Apostolicae Sedis*:

Things that are in themselves licit are sometimes not expedient, owing to difficulties which may easily arise, as in this case, especially on account of the disturbances which the priests who celebrate and the people who assist may experience, to the disadvantage of the sacred action and

of the Rubrics. Hence it is well to retain the common usage, as we have several times replied in similar cases.⁷¹

The Congregation for Sacred Rites acknowledged the licity of a dialogue Mass, yet discouraged its use on the basis of potential distraction for the celebrating priests and others engaged in devotional exercises. Later, the same congregation clarified that it was for the ordinary to decide whether it is advisable, in individual cases, and in light of various circumstances, to celebrate a dialogue Mass. Although the rescript indicated that a dialogue Mass is itself praiseworthy, care should be taken to ensure that its celebration promotes devotion rather than cause further disturbance.⁷² As a newly elected pontiff, Pius XI himself acted as celebrant of a dialogue Mass in St. Peter's in 1922.⁷³

1.3.3 – Reform of Liturgical Books

During the pontificate of Pius XI, a new edition of the *Rituale Romanum* was promulgated in 1925.⁷⁴ The new *editio typica* was promulgated largely to conform to the norms of the 1917 Code of Canon Law, the rubrics of the *Missale Romanum*, and recent decrees of the Holy See. New blessing formulas were added for such things as libraries, archives, meadows and pastures, and seismographs.⁷⁵ Thus begins a tendency in the twentieth century to keep pace with developments of a social and technological nature.

⁷¹ CONGREGATION FOR SACRED RITES, Private response concerning the celebration of a dialogue Mass, 4 August 1922, in *AAS*, 14 (1922), p. 505, English translation in *CLD*, 1, p. 199. Earlier rescripts can be found with analysis by I. HANSSENS in *Periodica*, 25 (1936), pp. 57-89, English translation of rescripts in *CLD*, 1, pp. 198-199.

⁷² *Idem*, Private response to the Archbishop of Genoa concerning the dialogue Mass, 30 November 1935, in *Periodica*, 25 (1936), p. 43, English translation in *CLD*, 1, pp. 199-200.

⁷³ G. ELLARD, *The Mass in Transition*, Milwaukee, WI, Bruce Pub. Co., 1956, p. 341.

⁷⁴ CONGREGATION FOR SACRED RITES, Decree promulgating a revised *editio typica* of the *Rituale Romanum*, 10 June 1925, in *AAS*, 17 (1925), p. 326; *Rituale Romanum Pauli VI Pontificis Maximi iussu editum ab eorum Pontificum cura recognitum, atque auctoritate S.S. m. D.N. P. Papae XI ad Normam Codicis Iuris Canonici accomodatum*, Rome, Typis Polyglottis Vaticanis, 1925.

⁷⁵ For a complete list of the changes introduced to the *Rituale Romanum*, see P. BATTISTINI, "De nova Ritualis Romani editione Vaticana," in *Ephemerides liturgicae*, 39 (1925), pp. 246-249. The *additiones et variationes*

In 1930, Pius XI reordered the Congregation for Sacred Rites with the addition of a third section, the *Sectio historica*. The two existing sections, established during a reordering of the congregation in 1914 by Pius X, were the *Sectio pro causis beatificationis et canonizationis* and the *Sectio pro sacra liturgia*. These two sections reflected the chief competencies of the congregation.⁷⁶ The *Sectio historica* served two purposes: firstly, it was to assist the first section in the resolution of any historical difficulties in the beatification and canonization process; secondly, it was to assist the second section in preparing for the reform, emendation, and issuance of new editions of liturgical texts and books.⁷⁷ Before 1948, however, the *Sectio historica* issued only one consultation document, on the reform of the rite of confirmation.⁷⁸ Although, it did not manage to publish any new edition of the liturgical books, this *sectio* became the source of significant revisions to the liturgical books under a renewed mandate of Pius XII.

1.4 – Pope Pius XII: 1939-1958

Six months had not yet elapsed since Pius XII's papal election before the outbreak of the deadliest conflict in human history. This global military conflict understandably stalled any advances in liturgical reform as international travel, communication, and cooperation proved difficult and sporadic. Following the Second World War, however, significant

introduced into the rubrics of the *Rituale Romanum* by means of the 1917 Code of Canon Law are documented in *Ephemerides liturgicae*, 36 (1922), pp. 191-194; 37 (1923), pp. 29-33, 345-345, 390-396; 454-456.

⁷⁶ PIUS X, Apostolic letter *motu proprio* reordering the Congregation for Sacred Rites *Quanta semper cura*, 26 January 1914, in *AAS*, 6 (1914), pp. 25-27.

⁷⁷ PIUS XI, Apostolic letter *motu proprio* establishing the *Sectio historica* of the Congregation for Sacred Rites *Già da qualche*, 6 February 1930, in *AAS*, 22 (1930), pp. 87-88.

⁷⁸ CONGREGATION FOR SACRED RITES, *De Pontificali Romano iussu Sanctissim Domini Nostri Pu Papae XI emendato: I De Confirmandis*. Sectio Historica, n. 12, Rome, Typis Polyglottis Vaticanis, 1930.

liturgical reforms occurred which, in many ways, provided the theological foundations upon which *Sacrosanctum concilium* is based.

Benedict XVI, in an address to the participants in the congress on *The Heritage of the Magisterium of Pius XII and the Second Vatican Council*, 8 November 2008, observed that Pius XII's name appears more than 200 times in the footnotes of the documents of the Second Vatican Council. Benedict XVI argues that, "with the exception of Sacred Scripture, this Pope is the most authoritative and frequently cited source." He continued by noting that "[i]t is also well known that the special notes of these documents are not, generally, simple explicative references but often constitute true, proper, and integral parts of Conciliar texts. They do not furnish only justifications to support what the text affirms, but offer an interpretive key."⁷⁹ A careful consideration of Pius XII's contributions, then, is indispensable.

1.4.1 – Papal Documents

What follows is an examination of Pius XII's contribution to liturgical reform. We begin with an examination of the encyclical on the liturgy, *Mediator Dei*, published in 1947, and considered by many as the "magna carta" of the liturgical movement.

1.4.1.1 – The Encyclical *Mediator Dei*

The first significant document on the liturgy following the end of the war was Pius XII's famous encyclical, *Mediator Dei*.⁸⁰ Leaders of the liturgical movement, such as L. Beauduin, enthusiastically welcomed the encyclical and acknowledged that its publication

⁷⁹ BENEDICT XVI, Address to the congress on *The Heritage of the Magisterium of Pius XII and the Second Vatican Council*, 8 November 2008, in *L'Osservatore Romano*, weekly English edition, 41 (12 November 2008), p 6

⁸⁰ PIUS XII, Encyclical letter on the sacred liturgy *Mediator Dei*, 20 November 1947, in *AAS*, 39 (1947), pp 521-595, English translation in SEASOLTZ, *The New Liturgy*, pp 107-159 Note that the original Latin contains no paragraph numeration

marked a decisive date in the renewal of the liturgy.⁸¹ This lengthy document – the first papal encyclical entirely devoted to the liturgy – acknowledged the “widespread scholarly interest in the sacred liturgy,” largely the result of the “zealous and persistent labour of several monasteries within the distinguished Order of St. Benedict” (n. 4). Among the “salutary fruits” of the liturgical movement, Pius XII identified the following:

The majestic ceremonies of the sacrifice of the altar became better known, understood and appreciated. With more widespread and more frequent reception of the sacraments, the worship of the Eucharist came to be regarded for what it really is: the fountainhead of genuine Christian devotion. Bolder relief was given likewise to the fact that all the faithful make up a single and very compact body with Christ for its Head, and that the Christian community is in duty bound to participate in the liturgical rites according to their station (n. 5).

At the beginning of the encyclical, Pius XII acknowledges two initiatives he had already undertaken to further liturgical reform, principally in his admonition to the Lenten preachers in Rome in 1943, and his approval of a new translation of the psalms for use with breviary.⁸² The new translation of psalms, incidentally, sought to adhere faithfully to the original Hebrew text and make use of the methods of modern textual criticism. The new translation was not warmly received by all, largely on the basis that the new psalter was unsuitable for Gregorian chant due its reliance on a “pseudo-ciceronian hue and vocabulary.”⁸³ Use of the new psalter remained optional.

Mediator Dei's four-fold division examines the liturgy from many dimensions, including the nature, source and development of the liturgy (nn. 13-65); Eucharistic worship (nn. 66-137); the Divine Office and the liturgical year (nn. 138-171); and, finally, by providing pastoral directives to further the liturgical apostolate (nn. 172-204). It builds upon the theme

⁸¹ L. BEAUDUIN, “L’encyclique «Mediator Dei»,” in *Maison-Dieu*, 13 (1948), p. 25.

⁸² PIUS XII, Allocution to the Lenten preachers in Rome, 13 March 1943, in *AAS*, 35 (1943), pp. 105-116; *idem*, Apostolic letter *motu proprio* approving a new version of the Latin psalter *In cotidianis precibus*, 25 March 1945, in *AAS*, 37 (1945), pp. 65-67, English translation in *CLD*, 3, pp. 64-67.

⁸³ H.A. REINHOLD, *Dynamics of Liturgy*, New York, Macmillan, 1961, p. 126. See also *idem*, “Towards the Breviary Reform,” in *Orate Fratres*, 23 (1948-1949), p. 75.

of the mystical body of Christ already developed in an earlier encyclical of Pius XII.⁸⁴ In fact, G. Ellard argues that *Mediator Dei* must be seen as the “second chapter” in the doctrinal synthesis of the mystical body of Christ begun in the encyclical *Mystici corporis*.⁸⁵ This synthesis is evident in the very definition of the sacred liturgy provided by *Mediator Dei*:

The sacred liturgy is, consequently, the public worship which our Redeemer as Head of the Church renders to the Father, as well as the worship which the community of the faithful renders to its Founder, and through him to the heavenly Father. It is, in short, the worship rendered by the mystical body of Christ in the entirety of its Head and members (n. 20).

Added to this, no fewer than twenty-five explicit references to the mystical body of Christ are found elsewhere in the encyclical. Perhaps the most striking of these references affirm the faithful’s participation in the priesthood of Christ.⁸⁶

The liturgical movement was not free from abuses or excesses.⁸⁷ Serving both to promote authentic liturgical reform and curb its excesses, *Mediator Dei* attempts to address perceived abuses while ensuring that the genuine contributions of the liturgical movement are given concrete expression and ecclesiastical approval. Huels observes that the intent of *Mediator Dei* was not so much to condemn specific abuses, as very few abuses are explicitly identified, but to “reassert complete papal authority over the liturgy.”⁸⁸ Echoing the

⁸⁴ PIUS XII, Encyclical letter on the mystical body of Christ *Mystica Corporis*, 29 June 1943, in *AAS*, 35 (1943), pp. 193-248, English translation in SEASOLTZ, *The New Liturgy*, pp. 64-102

⁸⁵ G. ELLARD, Introduction to *On the Sacred Liturgy: Encyclical Letter Mediator Dei*, New York, The America Press, 1948, p. 9.

⁸⁶ “By the waters of baptism, as by common right, Christians are made members of the mystical body of Christ the Priest, and by the ‘character’ which is imprinted on their souls they are appointed to give worship to God; thus they participate, according to their condition, in the priesthood of Christ” (*MD*, n. 88).

⁸⁷ The abuses Pius XII identifies explicitly in *Mediator Dei* include “the temerity and daring of those who introduce novel liturgical practices, or call for the revival of obsolete rites out of harmony with prevailing laws and rubrics” (n. 90) Also worthy of mention are “those who make use of the vernacular in the celebration of the august Eucharistic sacrifice; those who transfer certain feastdays – which have been appointed and established after mature deliberation – to other dates; those, finally, who delete from the prayerbooks approved for public use the sacred texts of the Old Testament, deeming them little suited and inopportune for modern times” (n. 90). For additional concerns characteristic of the time, see *Maison-Dieu*, 7 (1946), pp. 97-114; *CLD*, 3, pp. 350-352.

prescripts of the 1917 Code, *Mediator Dei* strongly affirms the Holy See's "prerogative to commend and approve whatever is done properly, and to check or censure any aberration from the path of truth and rectitude" (n. 9). *Mediator Dei* affirms that the sovereign pontiff alone enjoys the right to recognize and establish any practice touching on the worship of God, including the introduction, approval, or modification of liturgical rites (cf. *CIC/17*, c. 1257). Bishops, for their part, are to exercise vigilance and carefully ensure the exact observance of the prescriptions of the sacred canons concerning divine worship (cf. *CIC/17*, c. 1261). Private individuals, including clerics, are to refrain from introducing arbitrary changes to the liturgy (n. 58).

Pius XII equally reproves any form of antiquarianism, that is, "the restoration of all the ancient rites and ceremonies indiscriminately" (n. 61).⁸⁹ While the liturgy of earlier ages is worthy of veneration, "the more recent liturgical rites likewise deserve reverence and respect," for "[t]hey, too, owe their inspiration to the Holy Spirit, who assists the Church in every age to the consummation of the world" (n. 61). Pius XII warns that

[c]learly, no sincere Catholic can refuse to accept the formulation of Christian doctrine more recently elaborated and proclaimed as dogmas by the Church, under the inspiration and guidance of the Holy Spirit with abundant fruit for souls, because it pleases him to hark to the old formulas. No more can any Catholic in his right senses repudiate existing legislation of the Church in order to revert to prescriptions based on the earliest sources of canon law. Just as obviously unwise and mistaken is the zeal of one who in matters liturgical would go back to the rites and usages of antiquity, discarding the new patterns introduced by disposition of divine Providence to meet the change of circumstances and situation (n. 63).

⁸⁸ HUELS, "Participation by the Faithful in the Liturgy," p. 618.

⁸⁹ *Mediator Dei* provides the following examples: "Thus, to cite some instances, one would be straying from the straight path were he to wish the altar restored to its primitive table form; were he to want black excluded as a colour for the liturgical vestments; were he to forbid the use of sacred images and statues in churches; were he to order the crucifix so designed that the divine Redeemer's body bear no trace of his cruel sufferings; and lastly, were he to disdain and reject polyphonic music or singing in parts, even where it conforms to regulations issued by the Holy See" (n. 62). Ironically, some of what Pius XII had in mind is now considered normative, while the forms of liturgical worship before the Second Vatican Council – precisely what Pius XII was defending – are considered by some as representative of a new form of exaggerated antiquarianism.

Pius XII's highlighting of the dangers of an exaggerated antiquarianism is especially cogent in light of the task of interpreting and implementing the provisions of *Summorum Pontificum*, a task reserved to the fourth chapter of this study.

The encyclical frequently praises the efforts which facilitate the participation of the faithful in the Eucharist. Pius XII extols those who, “with the idea of getting the Christian people to take part more easily and more fruitfully in the Mass, strive to make them familiar with the Roman Missal, so that the faithful, united with the priest, may pray together in the very words and sentiments of the Church” (n. 105). The dialogue Masses were permitted, “when they are in complete agreement with precepts of the Church and the rubrics of the liturgy” (n. 105). Similarly, the encyclical encourages participation by means of singing the Gregorian chant, that which is “proposed to the faithful as belonging to them also” (n. 191), along with other forms of congregational singing (n. 194). *Mediator Dei* acknowledges that the lay faithful have no obligation to pray the Divine Office but nonetheless encourages their participation at vespers within parishes on feast days (n. 150).

Like Pius X and his successors, Pius XII earnestly recommended that the faithful receive communion frequently (n. 115). Priests are encouraged “to satisfy the piety and just request” of the faithful who wish “to become partakers of the same sacrifice.” As such, distribution of hosts consecrated at the same Mass to the assembled faithful was encouraged (n. 118).⁹⁰ This was to occur after the priest has partaken, so as to avoid the questionable, yet frequent, practice of distributing communion before or after Mass (n. 121).

Mediator Dei acknowledges that not all may be able to participate in the liturgy, a result of their inability to follow the Roman Missal, even in the vernacular, or understand

⁹⁰ Here Pius XII is recalling the words of Benedict XIV. See BENEDICT XIV, Encyclical letter concerning the distribution of communion *Certiores effecti*, 13 November 1742, in *Fontes*, vol 1, pp 771-773, n 331, §3

correctly the liturgical rites and formulas employed. In such cases, the encyclical encourages the adoption of “some other method which proves easier for certain people [.] which, though they differ from the sacred rites, are still essentially in harmony with them” (n. 108). Richstätter observes that “[i]t is not a question here of adapting the Mass to meet the mentality of people and their capabilities, but a question of encouraging the people to participate in the Mass as best they can.”⁹¹ Pious exercises, the recitation of prayers and meditation on the mysteries of Christ – provided they are in harmony with the sacred rites – can assist those otherwise unable to participate in the liturgy.

Mediator Dei provided a much needed synthesis between liturgical doctrine – much of which was rediscovered or developed in response to the liturgical movement of the twentieth century – and the pastoral needs of the faithful. It profoundly influenced the future course of liturgical renewal and, as Benedict XVI noted above, provided the theological foundation upon which many texts of the Second Vatican Council are based. Huels’ observes that “[w]ith this 1947 encyclical, the liturgical movement that had been confined to a small but growing number of enthusiasts now found many of its objectives gaining formal acceptance and endorsement by the Apostolic See.”⁹² This becomes even further evident in the substantial liturgical reforms which followed upon its publication.

1.4.1.2 – Eucharistic Fast and Evening Mass

Under Pius XII, the Eucharistic fast was twice mitigated. In 1953, several changes were introduced into the law concerning the Eucharistic fast by means of the apostolic

⁹¹ T. RICHSTATTER, *Liturgical Law. New Spirit, New Style*, Chicago, Franciscan Herald Press, 1977, p. 16 (=RICHSTATTER, *Liturgical Law*)

⁹² HUELS, “Participation by the Faithful in the Liturgy,” pp. 620-621

constitution, *Christus Dominus*.⁹³ While the Eucharistic fast from midnight remained in force, drinking natural water was considered no longer to break the fast (n. 1). The sick, even those not confined to bed, could take medicine and non-alcoholic liquids. This same faculty was granted to ill priests who intended to celebrate Mass (n. 2). Priests celebrating Mass at (1) a rather late hour, (2) after fatiguing work, or (3) after a long journey may take something to drink, excluding alcohol, but must observe the fast of one hour before the celebration of Mass (n. 3). Similarly, priests who celebrate Mass twice or three times may, in the prior Masses, take the two ablutions prescribed in the rubrics, but using only water (n. 4). The faithful, not because of illness but because of some other grave inconvenience, could upon the advice of their confessor take non-alcoholic liquids up to an hour before communion. They must, however, refrain from such drink for at least the space of one hour before receiving Communion (n. 5). Serious inconveniences included fatiguing work undertaken before holy communion, the lateness of the hour at which holy communion is received, and a long distance to travel to Church. The list was considered exhaustive, that is, it was not permitted to extend this provision in similar circumstances (*IDC*, n. 5).⁹⁴

Christus Dominus also derogated from c. 821, §1 of the 1917 Code which required that the celebration of Mass was to commence no sooner than one hour before dawn and no later than one hour after noon. Instead, local ordinaries were granted the faculty to permit in their own territory the celebration of evening Masses if circumstances made it necessary on the following days: holy days of obligation, including those observed and those formally

⁹³ PIUS XII, Apostolic constitution concerning new discipline for the Eucharistic fast *Christus Dominus*, 6 January 1953, in *AAS*, 45 (1953), pp 15-24, English translation in SEASOLTZ, *The New Liturgy*, pp 178-185

⁹⁴ SACRED CONGREGATION OF THE HOLY OFFICE, Instruction on the new discipline for the Eucharistic fast *De disciplina circa ieiunium eucharisticum servanda*, 6 January 1953, in *AAS*, 45 (1953), pp 47-51, English translation in SEASOLTZ, *The New Liturgy*, pp 185-189 (= *IDC*)

observed,⁹⁵ the first Fridays of each month, on the occasion of solemnities which are celebrated with a large congregation, and on one day a week if circumstances so require. Such Masses were not to begin any earlier than four o'clock in the evening. The faithful were to observe a fast from food and alcoholic beverages for three hours and from other liquids for one hour prior to receiving communion (n. 6). Again, the instruction of the Holy Office indicates that this list was considered exhaustive (*IDC*, n. 13).

Provisions for evening Mass and the Eucharistic fast were extended by Pius XII's *motu proprio Sacram Communionem*, in 1957.⁹⁶ Recognizing the "abundant benefits" of these provisions and desirous to fulfill the requests for further concessions by numerous bishops, Pius XII granted the following: (1) Local ordinaries, excepting vicars general without a special mandate, could permit the celebration of Mass in the hours after noon every day if the spiritual good of a notable part of the faithful required it; (2) The Eucharistic fast from solid foods and alcoholic beverages, either in the morning or in the afternoon, was reduced to three hours before Mass for priests and three hours before receiving communion for the faithful. Consumption of non-alcoholic beverages could occur up to one hour before communion; (3) the three-hour fast was also to be observed by those who celebrate Mass or receive communion at Midnight Mass or in the first hours of day; (4) the sick could take non-alcoholic liquids and proper medicines any time before receiving communion.

⁹⁵ See SACRED CONGREGATION OF THE COUNCIL, Decree of suppressed holy days of obligation, 28 December 1919, in *AAS*, 12 (1920), pp 42-43

⁹⁶ PIUS XII, Apostolic letter *motu proprio* extending the provisions for evening Mass and the Eucharistic fast *Sacram Communionem*, 19 March 1957, in *AAS*, 49 (1957), pp 177-178, English translation in SEASOLTZ, *The New Liturgy*, pp 249-250

1.4.1.3 – Gregorian Chant and Sacred Music

The encyclical letter of Pius XII, *Musicae sacrae disciplina*, follows a similar pattern adopted by his predecessors Pius X and Pius XI, in as much as it attempts to balance the preservation of the Church's musical heritage while remaining open to legitimate development and contemporary needs.⁹⁷ The first part of the encyclical traces the historical development of sacred music and the contributions of earlier popes, drawing special attention to Pius X who made, as it were, “the highest contribution to the reform and renewal of sacred music when he restated the principles and standards handed down from the elders and wisely brought them together as the conditions of modern times demanded” (n. 20).

Pius XII reiterates the Church's task to preserve the “precious treasure of Gregorian chant” (n. 44). Should the need arise for the composition of new Gregorian melodies, due to the addition of new feasts or the alteration of a liturgical rite, “it should be done in such a way that these new compositions obey the laws proper to genuine Gregorian chant and are in worthy harmony with the older melodies in their virtue and purity” (n. 44).

Although the use of vernacular hymns was prohibited from the celebration of solemn Mass without the express permission of the Holy See, the custom by which popular hymns are sung in the vernacular was tolerated at low Masses:

Nevertheless, at Masses that are not sung solemnly these hymns can be a powerful aid in keeping the faithful from attending the holy sacrifice like dumb and idle spectators. They can help to make the faithful accompany the sacred services both mentally and vocally and to join their own piety to the prayers of the priest. This happens when these hymns are properly adapted to the individual parts of the Mass, as we rejoice to know is being done in many parts of the Catholic world (n. 64)

Bishops were encouraged to promote popular religious singing and to gather these hymns into collections for use by the faithful (n. 66). Similarly, *Musicae sacrae disciplina* acknowledged

⁹⁷ *Idem*, Encyclical letter on sacred music *Musicae sacrae disciplina*, 25 December 1955, in *AAS*, 48 (1955), pp 5-25, English translation in SEASOLIZ, *The New Liturgy*, pp 218-233

the challenges posed in missionary countries and encouraged the cultivation of sacred Christian hymns which can be sung in familiar languages and melodies (n. 70). Despite the encouragement of vernacular hymns under certain circumstances, exceptions from the norm of Gregorian chant, even those conceded by the Holy See, were not to be propagated or extended more widely (n. 46). Instead, pastors were to ensure that the faithful learn the Gregorian melodies for use in the liturgy, “so that in this way also the unity and the universality of the Church may shine forth more powerfully every day” (n. 46).

Indeed, the preservation of the Church’s musical heritage is strongly asserted in *Musicae sacrae disciplina*, n. 30:

Hence, the Church must take the greatest care to prevent whatever might be unbecoming to sacred worship or anything that might distract the faithful in attendance from lifting their minds up to God, from entering into sacred music, which is the servant, as it were, of the sacred liturgy.

Serving as the third reinstatement of the Church’s principles on sacred music since 1903, it should come as no surprise that traditional standards of religious art and music are explicitly reaffirmed (nn. 22-27). The encyclical was followed by a much more comprehensive instruction of the Congregation of Sacred Rites in 1958, by which the principles of *Musicae sacrae disciplina*, as well as *Mediator Dei*, are given concrete juridical expression.⁹⁸

1.4.1.4 – Use of the Vernacular

Mediator Dei acknowledged that a limited use of the vernacular in several liturgical rites may be of much advantage to the people:

⁹⁸ Recall that encyclical letters (*litterae encyclicae*), such as *Mediator Dei* and *Musicae sacrae disciplina*, are products of the *munus docendi*, that is, the teaching office of the Church. Consequently, they are not principally or exclusively juridical in nature. F.G. Morrisey provides the following description: “An encyclical, then, is an expression of the Pope’s ordinary teaching authority, its contents are presumed to belong to the ordinary magisterium unless the opposite is clearly manifested. Because of this, the teaching of an encyclical is capable of being changed on specific points of detail” (F.G. MORRISEY, *Papal and Curial Pronouncements: Their Canonical Significance in Light of the Code of Canon Law*, 2nd edition revised and updated by M. THERIAULT, Ottawa, Faculty of Canon Law, Saint Paul University, 1995, pp. 11-12).

The use of the Latin language, customary in a considerable portion of the Church, is a manifest and beautiful sign of unity, as well as an effective antidote for any corruption of doctrinal truth. Despite this, the use of the mother language in connection with several of the rites may be of much advantage to the people. But the apostolic See alone is empowered to grant this permission. It is forbidden, therefore, to take any action whatever of this nature without having requested and obtained such consent, since the sacred liturgy, as we have said, is entirely subject to the discretion and approval of the Holy See (n. 60).

Shortly thereafter the Holy See increasingly conceded use of the vernacular and permitted bilingual editions of the *Rituale Romanum*.⁹⁹ For the most part, however, sacramental forms, exorcisms, and anointings had to remain in Latin. A new *editio typica* of the *Rituale Romanum* was promulgated in 1952 – the last edition before the liturgical reform following the Second Vatican Council – and served as the basis for all subsequent vernacular translations.¹⁰⁰ Unlike other concessions which were limited to the liturgical rites contained within the *Rituale Romanum*, the Church in China received permission for use of the vernacular in all parts of the Mass before and after the canon. The canon itself was to remain in Latin, except those parts which were to be recited aloud, such as the *Pater noster*, *Pax Domini*, and *Agnus Dei*.¹⁰¹

1.4.1.5 – Holy Orders

By means of two apostolic constitutions, Pius XII definitively resolved important questions concerning the sacrament of holy orders. The 1917 Code, c. 954, and the rubrics of the *Pontificale Romanum* required, in addition to the principal consecrating bishop, the presence of at least two assisting bishops at the consecration of a bishop-elect unless the

⁹⁹ For an overview, see J. HOFINGER (ed.), *Liturgy and the Missions: The Nymegen Papers*, London, Burns & Oates, 1960, pp. 293-295; G. ELLARD, *Mass in Transition*, Milwaukee, Bruce Pub. Co., 1956, pp. 354-364; C. KOROLEVSKY, *Living Languages in Catholic Worship: An Historical Inquiry*, trans. D. ATTWATER, London, Longmans, Green and Co., 1957, pp. 109-114.

¹⁰⁰ CONGREGATION FOR SACRED RITES, Decree promulgating a new *editio typica* of the *Rituale Romanum*, 25 January 1952, in *Ephemerides liturgicae*, 66 (1952), p. 220, *Rituale Romanum Pauli V Pontificis Maximi iussu editum aliorumque Pontificum cura recognitum atque ad normam Codicis Iuris Canonici accomodatum, SS.mi D.N. Pii Papae XII auctoritate ordinatum et auctum*, Rome, Typis Polyglottis Vaticanis, 1952.

¹⁰¹ SACRED CONGREGATION OF THE HOLY OFFICE, Decree on the use of Mandarin Chinese in the Mass, 12 April 1949, in C. COSTANTINI (ed.), *Ultime foglie: ricordi e pensieri*, Rome, Unione missionaria del clero in Italia, 1953, pp. 376-377, English translation in *CLD*, 5, p. 429.

Holy See had granted a dispensation from this requirement. Doubts remained whether these assisting bishops were true cooperators and co-consecrators or merely witnesses of the consecration. This confusion resulted in divergent liturgical practices concerning the proper prayers to be recited by the assisting bishops. The apostolic constitution, *Episcopalis consecrationis*, resolved this matter as follows:

Although for the validity of the episcopal consecration only one bishop is required and sufficient, provided he perform the essential rites, nevertheless the two bishops who, according to the ancient practice and the prescription of the *Roman Pontifical*, assist at the consecration, must, together with the Consecrator, being themselves Consecrators and therefore henceforth to be called Co-consecrators, not only touch the head of the bishop-elect with both hands while they say ‘*Accipe Spiritum Sanctum*,’ but, having beforehand formed the intention of conferring episcopal consecration together with the bishop who is Consecrator, must also recite the prayer “*Propitiare*” with the entire Preface which follows it, and likewise, throughout the entire rite, read in a low voice everything which the Consecrator reads or sings, except the prayers prescribed for the blessing of the pontifical vestments which are to be imposed in the rite of consecration.¹⁰²

Pius XII, therefore, determined that assisting bishops are not merely witnesses of the consecration of a bishop-elect but act as true consecrators. As such, the *Pontificale Romanum* was to be revised to conform to the norms above, specifically to state more clearly the prayers to be recited by the co-consecrating bishops.

In addition to the imposition of hands and the recitation of specified prayers, the rite of ordination to the diaconate, presbyterate, and episcopacy each entailed the handing over of a unique *traditio instrumentorum* with accompanying words, that is, instruments to symbolize the order being received. The instruments handed over to the ordinand consisted of the Book of the Gospels in the ordination of deacon, a chalice and paten with valid and licit matter for consecration in the ordination of a priest, and the Book of the Gospels in an episcopal consecration. The rite of clothing the ordinand in the vestments proper to the order, as well as handing over the miter, crozier, and ring at the consecration of a bishop,

¹⁰² PIUS XII, Apostolic constitution concerning the function of assisting bishops at the consecration of a bishop-elect *Episcopalis consecrationis*, 30 November 1944, in *AAS*, 37 (1945), pp 131-132, English translation in *CLD*, 3, pp. 392-393.

were not considered essential to the rite of ordination and, as such, did not affect the validity of the ordination should they be accidentally omitted.¹⁰³

Pius XII, by means of the apostolic constitution, *Sacramentum ordinis*, resolved questions concerning the *traditio instrumentorum* and determined the essential matter and form in the rites of ordination to the diaconate, presbyterate, and episcopacy:

Wherefore, after invoking the divine light, We of Our Apostolic Authority and from certain knowledge declare, and as far as may be necessary decree and provide. that the matter, and the only matter, of the Sacred Orders of the Diaconate, the Priesthood, and the Episcopacy is the imposition of hands; and the form, and the only form, is the words which determine the application of this matter, which univocally signify the sacramental effects – namely the power of Order and the grace of the Holy Spirit – and which are accepted and used by the Church in that sense. It follows as a consequence that We should declare, and in order to remove all controversy and to preclude doubts of conscience, We do by Our Apostolic Authority declare, and if there was ever a lawful disposition to the contrary We now decree that at least in the future the *traditio instrumentorum* is not necessary for the validity of the Sacred Orders of the Diaconate, the Priesthood, and the Episcopacy.¹⁰⁴

Pius XII also clarified clearly how the imposition of hands was to occur and the words to be employed in the conferral of each order. Variations and additions to the rubrics of the *Pontificale Romanum* were decreed by the Sacred Congregation for Rites to reflect these provisions.¹⁰⁵ The provisions of *Sacramentum ordinis* were not retroactive; cases of doubt concerning the validity of an ordination before 30 November 1947 were to be submitted to the Holy See for examination.

Within the broader context of this study, these clarifications are extremely significant. Among the sacraments in which the pre-conciliar rites may be employed, *Summorum Pontificum* does not list Holy Orders (cf. art. 9). Yet, the Holy See has conceded

¹⁰³ See S. WOYWOOD, *A Practical Commentary on the Code of Canon Law*, 2 vols., revised by C. SMITH, New York, J.F. Wagner, 1948, vol. 1, pp. 626-636.

¹⁰⁴ PIUS XII, Apostolic constitution concerning the matter and form of the sacrament of holy orders *Sacramentum ordinis*, 30 November 1947, in *AAS*, 40 (1950), pp. 5-7, English translation in *CLD*, 3, pp. 396-399.

¹⁰⁵ CONGREGATION FOR SACRED RITES, Decree concerning changes in the *Pontificale Romanum* for the Rite of Ordination, 20 February 1950, in *AAS*, 42 (1950), p. 448, English translation in *CLD*, 3, pp. 395-396. The approved changes can be found in *AAS*, 49 (1950), pp. 449-455.

the use of the pre-conciliar rites of ordination for communities devoted to earlier liturgical forms, such as the Priestly Fraternity of St. Peter. The clarifications offered by Pius XII, therefore, assume greater importance in light of current practice.

1.4.2 – Curial Documents

The organization best suited to undertake a comprehensive reform of the liturgy remained the *sectio historica* of the Congregation for Sacred Rites, established by Pius XI in 1930 for precisely this purpose. A working document was prepared under the title *Memoria sulla riforma liturgica* to serve as a guide for discussion of various liturgical issues. As a result of further consultation, four additional supplements were published.¹⁰⁶ Although prepared by the *sectio historica*, these documents were utilized by a special commission, appointed on 28 May 1948, to deal with the general restoration of the liturgy.¹⁰⁷ For twelve years, until its absorption into the conciliar preparatory commission, the commission held eighty-two meetings and operated in absolute secrecy.¹⁰⁸ The *Memoria*, n. 21, indicates that a comprehensive reform of the liturgy was envisaged, including a reform of all the principal liturgical books of the Roman Rite. Not all of this was accomplished before the Second

¹⁰⁶ *Idem, Sectio Historica, Memoria sulla riforma liturgica*, n. 71, Vatican City, Tipografia Poliglotta Vaticana, 1948; *idem, Memoria sulla riforma liturgica*, Supplemento II, *Annotazioni all' 'memoria'*, n. 76, Vatican City, Tipografia Poliglotta Vaticana, 1950; *idem, Memoria sulla riforma liturgica*, Supplemento III, *Maternale storica, agiografico, liturgico per la riforma del calendario*, n. 79, Rome, Typis Polyglottis Vaticanis, 1951; *idem, Memoria sulla riforma liturgica*, Supplemento IV, *Consultazione dell'episcopato intorno alla riforma del Breviario Romano (1956-1957), Risultati e deduzioni*, n. 97, Vatican City, Tipografia Poliglotta Vaticana, 1957. All of these documents have been reproduced in C. BRAGA (ed.), *La riforma liturgica di Pio XII, Documenti – 1. La «Memoria sulla riforma liturgica»*, Rome, CLV-Edizioni Liturgiche, 2003.

¹⁰⁷ There was no official announcement of the commission at the time of its creation. See A. BUGNINI, “Pius XII et liturgia,” in *Ephemerides liturgicae*, 72 (1958), p. 377. See also “Promemoria sull'origine della Commissione Pontificia per la Riforma Liturgica e sul lavoro da essa compiuto negli anni 1948-1953,” in N. GIAMPIETRO, *Il Card. Ferdinando Antonelli e gli sviluppi della riforma liturgica dal 1948-1970*, Rome, Pontificio Ateneo S. Anselmo, 1998, pp. 274-277.

¹⁰⁸ The minutes of each of these meetings have been reproduced as an appendix in N. GIAMPIETRO, *Il Card. Ferdinando Antonelli e gli sviluppi della riforma liturgica dal 1948-1970*, Rome, Pontificio Ateneo S. Anselmo, 1998, pp. 278-388.

Vatican Council, yet the impact of this pontifical commission was enormous, resulting in noteworthy and incremental pre-conciliar developments. Worthy of mention are (1) the restoration of the Easter Vigil and a reform of the Order of Holy Week, (2) a simplification of the rubrics for the breviary and missal, and (3) the preparation of an instruction on sacred music and its use within the liturgy in 1958. Even after the commission's dissolution, its work served as the basis for a number of legislative developments, considered later in this chapter, during the pontificate of John XXIII.

1.4.2.1 – Changes to Order of Holy Week

Over time and for various reasons, the paschal vigil was no longer celebrated in its proper place, that is, in the night hours before the celebration of the Resurrection of the Lord on Easter Sunday morning. Instead, liturgical law relegated the celebration of the Easter vigil to Holy Saturday morning, not without some detriment to its original symbolism. As a result of numerous requests from bishops, groups of the faithful, and religious, the Holy See entrusted a careful study of this matter to the pontifical liturgical commission. The commission drafted appropriate rubrics for the nocturnal celebration of the paschal vigil, which, in turn, was permitted *ad experimentum* for one year at the prudent discretion of local ordinaries.¹⁰⁹ Since the evening vigil proved successful, requests were made to the Holy See for an extension of the faculty permitting the nocturnal celebration of the Easter Vigil. The pontifical liturgical commission reviewed numerous reports, containing comments for improvements, and made notable revisions to the rite and accompanying rubrics. Celebrations of the Easter vigil, incorporating these changes, were permitted for an

¹⁰⁹ CONGREGATION FOR SACRED RITES, Decree, with accompanying rubrics, permitting the nocturnal celebration of the Easter Vigil for one year, 9 February 1951, in *AAS*, 43 (1951), pp 128-137, English translation in *CLD*, 3, pp 34-35

additional three years, again at the discretion of local ordinaries.¹¹⁰ One final extension of this faculty occurred in 1955, before the new order of Holy Week became obligatory for the universal Church later that same year.

The restored rite of Holy Week was promulgated by the Congregation for Sacred Rites on 16 November 1955 and the text was accompanied by an instruction on the correct use of the restored rites.¹¹¹ One purpose of the restored order of Holy Week was to ensure that these rites were celebrated on the same days of the week and at the same hours of the day at which the sacred mysteries took place in the gospels. While the celebration of Palm Sunday remained in the morning, the celebrations of the Triduum were to take place in either the afternoon or evening. The Mass of the Lord's Supper on Holy Thursday was to be celebrated in the evening, no earlier than 5:00 and no later than 8:00 (n. 7). The service of the Lord's passion and death on Good Friday was to be celebrated about 3:00 in the afternoon, but no later than 6:00 (n. 8). The Easter Vigil was to begin at about midnight of the night between Holy Saturday and Easter Sunday. Where required, and in the judgement of the local ordinary, the celebration of the vigil could be anticipated, but not before twilight or at least not before sunset (n. 9).

An instruction accompanying the decree of promulgation specified the appropriate pastoral and ritual preparation which should be provided to the faithful to ensure that they may both mentally and spiritually participate in the services (nn. 1-3). Further, the decree of promulgation derogated from c. 1252, §4 of the 1917 Code which required the observance

¹¹⁰ *Idem*, Decree, with accompanying rubrics, permitting the nocturnal celebration of the Easter Vigil for three additional years, 11 January 1952, in *AAS*, 44 (1952), pp. 48-63, English translation in *CLD*, 3, pp. 35-37.

¹¹¹ *Idem*, General decree promulgating the *editio typica* of the restored order of Holy Week *Maxima redemptionis nostrae mysteria*, with an accompanying instruction, 16 November 1955, in *AAS*, 47 (1955), pp. 838-847, English translation in *CLD*, 4, pp. 49-61; *Ordo Hebdomadae Sanctae instauratus, editio typica*, Rome, Typis Polyglottis Vaticana, 1956.

of the Lenten abstinence and fast until noon on Holy Saturday. With the restoration of the nocturnal celebration of the vigil, the Lenten fast was extended to midnight (n. 10).¹¹² Additional ordinances and declarations were provided by the Congregation for Sacred Rites to specify when and under what conditions the simple rite of Holy Week may be licitly used.¹¹³ Finally, emendations to the *Graduale Romanum* and *Antiphonale Romanum* were made to correspond to the revised order of Holy Week.¹¹⁴

1.4.2.2 – Simplification of Rubrics and Reform of the Breviary

A simplification of the rubrics for the *Missale Romanum* and *Breviarium Romanum*, in addition to emendations to the liturgical calendar, was undertaken by the pontifical liturgical commission and promulgated by means of a decree of the Congregation for Sacred Rites.¹¹⁵ Ferdinando Antonelli, a member of the pontifical liturgical commission, explains the simplification as follows:

Actually the true purpose of the much-desired simplification of the rubrics is not at all, as some may have thought, to reduce the public prayer of the Church to more limited dimensions. It is rather to free it from all those formalistic and complicated elements, usually of late origin, which

¹¹² The 1917 Code specified the days of abstinence and fast to be observed during Lent. Abstinence and fast together were to be observed on Ash Wednesday and the Fridays and Saturdays of Lent (c. 1252, §2). A fast alone was to be observed on all other days of Lent (c. 1252, §3). On Sundays and holy days of obligation, except a holy day in Lent, the laws of fast and abstinence were not to be observed (c. 1252, §3). The derogation noted above extended the Lenten fast and abstinence, as indicated in c. 1252, §4, from twelve noon on Holy Saturday to midnight. The law of abstinence forbids the eating of meat and broth made of meat, but does not apply to eggs, milk products, or condiments made from animal fat (cf. c. 1250). The law of fast prescribes that only one full meal may be taken during a day, but does not exclude that some food be taken in the morning and evening (cf. c. 1251).

¹¹³ CONGREGATION FOR SACRED RITES, Decree concerning the use of the simple form of the sacred rites of Holy Week, 15 March 1956, in *AAS*, 48 (1956), pp. 153-154, English translation in *CLD*, 4, pp. 61-62; *idem*, Declaration and ordinances on the use of the solemn or simple rite of the liturgy of Holy Week, 1 February 1957, in *AAS*, 49 (1957), pp. 91-95, English translation in *CLD*, 4, pp. 62-67.

¹¹⁴ *Idem*, Decree specifying emendations to be inserted into the *Graduale* and *Antiphonale* to correspond to the new order of Holy Week, 11 February 1956, in *Ephemerides liturgicae*, 70 (1956), pp. 227-228.

¹¹⁵ *Idem*, General decree promulgating a simplification of the rubrics *Cum nostra*, 23 March 1955, in *AAS*, 47 (1955), pp. 218-224, English translation in *CLD*, 4, pp. 25-33. The simplification necessitated further clarifications from the Sacred Congregation of Rites. See *idem*, Reply to questions concerning the simplification of rubrics, 2 June 1955, in *AAS*, 47 (1955), pp. 418-419. Further private replies can be found in *CLD*, 4, pp. 35-46.

have become a burden to the 'sacrifice of praise' and have gradually changed the original sobriety of its structure. In practice, these formalistic complications have become an annoyance and a hindrance to that living participation which the whole liturgy of its nature demands. Thus the purpose in eliminating them is not to pray less but to pray better. That is the spirit of the decree.¹¹⁶

The simplification increased the number of facultative rubrics, although by present standards they appear to be very few. Perhaps the most significant revisions consisted of the suppression of the rank and rite of *semi-double* and all octaves besides the octaves of Christmas, Easter, and Pentecost. O'Connell describes the practical consequences of this reform:

The Commission had to confine its work to simplification of the rubrics, with no textual changes in the Breviary and Missal, and the removal of undesirable accretions. Its chief purpose was to restore as fully as possible the pre-eminence of the Sunday and ferial offices by a drastic reform of the calendar, and to give encouragement to the increased use of sung offices, which are the typical services of the Sacred Liturgy.¹¹⁷

Although the simplification was a welcome measure, these rubrics were utilized for a fairly short period of time. A more significant revision of the rubrics occurred under John XXIII in 1960, in addition to significant revisions to the rites themselves following the Second Vatican Council.

Further attempts were made to reform the breviary when, in 1957, 400 metropolitan archbishops were consulted on the perceived need to reform the breviary. Their responses reveal little convergence of opinion.¹¹⁸ One could have reasonably assumed, for example, that the use of the vernacular would be a nascent concern, yet this was not overwhelmingly

¹¹⁶ F. ANTONELLI, Preface to A. BUGNINI, *The Simplification of the Rubrics*, trans. L.J. DOYLE, Collegette, MN, Doyle and Finegan, 1955, p. 7.

¹¹⁷ J.B. O'CONNELL, *Simplifying the Rubrics of the Roman Breviary and Missal*, London, Burns & Oates, 1956, p. 14. For further detailed commentaries on the revised rubrics, see A. BUGNINI, *The Simplification of the Rubrics*, trans. L.J. DOYLE, Collegette, MN, Doyle and Finegan, 1955, A.-G. Martimort, "La réforme des rubriques," in *La Maison-Dieu*, 42 (1955), pp. 5-28.

¹¹⁸ The results of the consultation were published in CONGREGATION FOR SACRED RITES, *Sectio Historica, Memoria sulla riforma liturgica*, Supplemento IV, *Consultazione dell'episcopato intorno alla riforma del breviario romano (1956-1957), Risultati e deduzioni*, n. 97, Vatican City, Tipografia Poliglotta Vaticana, 1957.

identified in the responses. The most popular suggestion concerned the simplification of the breviary hymns. Although no substantial reform of the breviary would occur until after the council, the Holy See's openness to consultation with the episcopacy concerning the liturgy "points to an ecclesiology in which the bishops have a larger liturgical role than merely to safeguard the observance of the rubrics."¹¹⁹ This, of course, was affirmed at the Second Vatican Council and became a catalyst for a number of the liturgical reforms which followed shortly thereafter.

1.4.2.3 – Instruction *De musica sacra*

Shortly before the death of Pius XII and on the feast of St. Pius X, a most helpful instruction, *De musica sacra*, prepared by the Pontifical Commission for the General Restoration of the Liturgy and experts in sacred music, was published by the Congregation for Sacred Rites on the topic of sacred music and its use within the liturgy.¹²⁰ Drawn from the principles enunciated in Pius X's *Tra le sollecitudini* (1903), Pius XI's *Divini cultus* (1928), and Pius XII's *Mediator Dei* (1947) and *Musicae sacrae disciplina* (1955), as well as incorporating the several significant changes in liturgical law noted above, this lengthy instruction, approved *in forma specifica*, provided a helpful consolidation of liturgical law to date.¹²¹ For the most part, the instruction contained no new legislation. As F.R. McManus notes, "it is only

¹¹⁹ RICHSTATTER, *Liturgical Law*, p. 38.

¹²⁰ CONGREGATION FOR SACRED RITES, Instruction on sacred music and liturgy *De musica sacra*, 3 September 1958, in *AAS*, 50 (1958), pp. 630-663, English translation in SEASOLTZ, *The New Liturgy*, pp. 255-282.

¹²¹ The approval of an instruction *in forma specifica* is extremely rare and, arguably, counterintuitive. The purpose of an instruction is to explain the prescripts of the law more fully and urge their observance. By approval *in forma specifica*, the pope effectively raised the juridical significance of *De musica sacra* from an administrative measure of the Congregation for Sacred Rites to that of legislation with papal approbation. See J.M. HUELS, "Interpreting an Instruction Approved *in forma specifica*," in *Studia canonica*, 32 (1998), pp. 5-23. An alternate explanation for the approval *in forma specifica* remains Pius XII's personal involvement in the preparation of this instruction. See J. LOW, "The New Instruction," in *Worship*, 33 (1958-59), p. 13.

the summing up and restatement of law already binding and principles more basic than the laws themselves.”¹²²

The lengthy instruction is comprised of 118 articles and divided into three chapters.¹²³ The first chapter, “General Concepts” (nn. 1-10) provides concise definitions for terms employed in the instruction, such as “liturgical services,” “pious exercises,” and “religious music.” The second chapter, “General Norms” (nn. 11-21), provides juridical norms of a general nature before proceeding to the “Special Norms” contained in chapter three. The third chapter, the most detailed and lengthiest of the three, contains norms regarding the principal liturgical services in which sacred music is used, including the Mass (nn. 22-39), Divine Office (nn. 40-46), and the benediction of the Blessed Sacrament (n. 47). It also provides norms on the various kinds of sacred music permitted (nn. 48-55), books of liturgical chant (nn. 56-59), musical instruments (nn. 60-92), the persons who have the principal roles in sacred music and the liturgy (nn. 93-103), as well as the necessity of fostering sacred music and the liturgy (nn. 104-118).

As a principal objective of the liturgical movement, active participation in the celebration of liturgy was increasingly, yet cautiously, permitted by the Holy See. *De musica sacra* marks a notable transition from mere toleration of the laity’s involvement in the liturgy to a practical promotion of their active participation. By its very nature, Mass requires that all those who are present should participate, each in his/her own way (n. 22). *De musica sacra* distinguished between two forms of the Mass, the *Missa in cantu*, that is a sung Mass, and the

¹²² FR MCMANUS, “The Law, the Liturgy, and Participation,” in *Participation in the Mass, 20th North American Liturgical Week*, 23-26 August 1959, Washington, DC, The Liturgical Conference, 1960, p. 44.

¹²³ While an overview of the document is only permitted here, a commentary on the complete instruction can be found in A.-G. MARTIMORT and F. PICARD, *Liturgie et musique*, Paris, Éditions du Cerf, 1959. See also J.B. O’CONNELL, *Sacred Music and Liturgy*, London, Burns and Oates, 1959; H. SCHMIDT, “Commentarium,” in *Periodica*, 47 (1958), pp. 420-480; R. VAN DOREN, “L’instruction sur la musique sacrée et la liturgie,” in *Questions liturgiques et paroissiales*, 40 (1959), pp. 26-39.

Missae lecta, that is a read Mass. If the Mass is sung with the assistance of sacred ministers, it is called a “solemn Mass;” otherwise it is called a “*Missae cantata*” (n. 3). The active participation of the faithful in a solemn Mass can be accomplished in three stages. Firstly, the faithful participate by means of chanting the liturgical texts properly belonging to them. Secondly, by chanting the parts of the ordinary of the Mass, such as the *Kyrie*, *Gloria*, and *Credo*. This can be accomplished through the use of simpler Gregorian melodies. Thirdly, the faithful can chant the parts of the proper of the Mass. This form of participation is especially encouraged in religious communities and seminaries (n. 25).

In low Masses, participation was presented in incremental stages as well. The first stage consisted of the faithful participating by means of devout attention to the principal parts of Mass. The use of a small missal was encouraged to facilitate this form of participation (n. 29). A second stage of participation consisted of the faithful offering complementary prayers or songs in common. These could be in the vernacular, provided the proper texts of the Mass are not prayed in the vernacular (nn. 30, 14c). Finally, the “third and most perfect” manner in which the faithful can participate is by offering the proper responses, that is, a dialogue Mass (n. 31). The entire *Pater noster* could be recited in Latin by both the priest and people in common at all low Masses (n. 32). While vernacular religious hymns were encouraged to complement the various parts of the Mass (nn. 14b, 33), the use of the vernacular was strictly forbidden for the proper, ordinary, and canon of the Mass. It was permissible, however, for the gospel and epistle to be read by a lector in the vernacular for the convenience of the faithful (n. 14c).

De musica sacra also identifies two instances where priests can encourage greater participation and intelligibility among the faithful by performing their own liturgical function well. Where the rubrics indicate something to be said in “a clear voice,” the celebrant

“should read in a raised voice” in order to ensure that “the faithful can follow the sacred action appropriately and easily” (n. 34). Similarly, “the priest celebrant and the sacred ministers, besides accurately observing the rubrics, should endeavour to execute their sung parts as correctly, distinctly and artistically as they can” (n. 94). Richstatter correctly observes that *De musica sacra* marks “the beginnings of rubrics which demand more of the celebrant than mere mechanical obedience.”¹²⁴

This instruction followed upon Pius XII’s strongest endorsement of the liturgical movement, which occurred when he addressed the International Congress of Pastoral Liturgy, held in Assisi and Rome, 18-22 September 1956. In his allocution to the congress, Pius XII remarked:

If one compares the present state of the liturgical movement with what it was thirty years ago, it is obvious that undeniable progress has been made both in extent and in depth. The interest brought to the liturgy, the practical accomplishments and the active participation of the faithful have developed to an extent unthought of at the time [...] The liturgical movement is thus shown forth as a sign of the providential dispositions of God for the present time, of the movement of the Holy Ghost in the Church, to draw men more closely to the mysteries of the faith and the riches of grace which flow from the active participation of the faithful in the liturgical life.¹²⁵

Like *Mediator Dei*, the instruction *De musica sacra* seeks to identify effective ways of facilitating the active participation of the faithful, especially by the use of sacred music, in keeping with the nature of liturgical worship and the observance of liturgical law. It achieves this by providing a helpful consolidation of laws concerning the liturgy so that the content of these liturgical norms may be known and observed throughout the Church. The instruction is

¹²⁴ RICHSTATTER, *Liturgical Law*, p. 47.

¹²⁵ PIUS XII, Allocution to the International Congress of Pastoral Liturgy, 22 September 1956, in *AAS*, 48 (1956), pp. 711-725, English translation in *The Assisi Papers: Proceedings of the First International Congress of Pastoral Liturgy, Assisi-Rome, September 18-22, 1956*, Collegeville, MN, Liturgical Press, 1957, pp. 223-236.

preeminently pastoral and, for this reason, it was dubbed by J.B. O’Connell as “the last act of the great Pope of the Liturgy on behalf of the Liturgical Movement.”¹²⁶

1.5 – Pope John XXIII: 1958-1963

In addition to convening the Second Vatican Council – a contribution to liturgical reform in its own right – John XXIII is responsible for three significant liturgical reforms before the promulgation of *Sacrosanctum concilium* in 1963.¹²⁷ Although largely forgotten, these provisional liturgical reforms served as important precursors to the much more substantive reform to follow the council. The reforms to be considered below include: (1) the promulgation of a new code of rubrics; (2) the promulgation of a new edition of the second part of the *Pontificale Romanum*; and (3) the restoration of the stages of the catechumenate before adult baptism. The importance of these reforms cannot be underestimated, for they now serve an important function in light of the provisions of *Summorum Pontificum* and the use of pre-conciliar liturgical rites.

1.5.1 – Code of Rubrics

Although the project of preparing a codification of liturgical law began under Pius XII and the special commission he formed for the restoration of the liturgy, John XXIII deemed it advantageous to continue. In light of the upcoming ecumenical council, he decided “that the more important principles (*altiora principia*) governing a general liturgical reform should be laid before the members of the hierarchy at the forthcoming ecumenical

¹²⁶ J B O’CONNELL, *Sacred Music and Liturgy*, London, Burns and Oates, 1959, p 13

¹²⁷ JOHN XXIII, Apostolic constitution proclaiming the Second Vatican Council *Humanae salutis*, 25 December 1961, in *AAS*, 54 (1962), pp 5-13, English translation in *The Pope Speaks*, 7 (1961), pp 353-361

council, but that the abovementioned improvement of the rubrics of the breviary and missal should no longer be put off.”¹²⁸

The *motu proprio* explicitly abrogated the following: (1) the *Rubricae generales* which had hitherto prefaced the breviary and missal; (2) the additions and variations in both the breviary and missal introduced by means of Pius X’s apostolic constitution *Divino afflatu*; (3) the simplification of the rubrics of the breviary and missal which occurred by means of a general decree of the Sacred Congregation of Rites on 23 March 1955; and, finally, (4) the decrees and responses to questions made by the Sacred Congregation of Rites which do not agree with the new Code of Rubrics. Furthermore, “statutes, privileges, indulgences and customs of any kind whatsoever, including those that are centenary and immemorial, even if they are worthy of special and individual mention, shall be revoked if they are opposed to these rubrics.” McManus recognizes the rarity of such a broad sweeping revocation and acknowledges that such occurred “due to the basic desire of the codifiers to clarify and simplify.”¹²⁹ The *Corpus rubricarum* was not a complete codification of liturgical law, nor did it aspire to serve as such. The new code of rubrics did not directly affect, for example, the prefacing liturgical laws of the *Missale Romanum*, such as the *Ritus servandus in celebratione Missae* and the *De defectibus in Missae celebratione occurrentibus*.¹³⁰ Nevertheless, the code of rubrics was a significant and welcomed contribution.

The code of rubrics was divided into three parts: general rubrics (nn. 1-137), the Roman Breviary (nn. 138-268), and the Roman Missal (nn. 269-530). Appended to the code

¹²⁸ *Idem*, Apostolic letter *motu proprio* approving a new code of rubrics *Rubricarum instructum*, 25 July 1960, in *AAS*, 52 (1960), pp 593-595, English translation in SEASOLTZ, *The New Liturgy*, pp 305-307 (=RI)

¹²⁹ FR MCMANUS, *Handbook for the New Rubrics*, Baltimore, MD, Halicon Press, 1961, p 11 (=MCMANUS, *Handbook for the New Rubrics*)

¹³⁰ *Ibid*, p 5

of rubrics was a collection of *variationes*, that is, variations by which the then-current breviary and missal as well as the martyrology may be adapted without having to print new liturgical books.¹³¹ This very accommodation reveals the provisional nature of this reform in light of further anticipated reform following the Second Vatican Council. The document deliberately avoided innovation to allow major changes to be debated and resolved by the upcoming ecumenical council. Nevertheless, Richstatter identifies the emergence of a new type of “rubrical vocabulary” which would be later employed in conciliar and post-conciliar liturgical documents. For example, the rubrical code marks a shift from a strictly juridical style to a style in which explanations are provided for the rubrics themselves.¹³² As well, exhortative, rather than prescriptive language is employed in a number of articles.¹³³ The new code affirmed the importance of active participation, but directed the reader to the 1958 instruction *De musica sacra* which dealt with these matters at greater length (n. 272). Despite its provisional nature, it was deemed expedient to prepare a new *editio typica* of the *Breviarum Romanum* and *Missale Romanum* in 1961 and 1962 respectively.¹³⁴ There were no substantial textual emendations to these books; they merely incorporated the revised rubrics.

¹³¹ A summary of changes introduced by the new rubrics for the Divine Office and celebration of Mass can be found in MCMANUS, *Handbook for the New Rubrics*, pp. 81-83, 101-105.

¹³² Richstatter provides the following examples: nn. 270, 142, 145, 147. He also identifies a provision for local adaptation. Episcopal conferences are permitted to substitute another liturgical colour if the prescribed colour “does not agree with the meaning those people are accustomed to...” (n. 117). Although provision for local adaptation was habitually made in private responses from the Congregation for Sacred Rites, this is the first direct reference to the liturgical authority of an episcopal conference in a general rubric. See RICHSTATTER, *Liturgical Law*, pp. 52-53.

¹³³ Richstatter provides the following examples. n. 142. *praestat ut ...* (it is better that ...); n. 143: *sufficit ut ...* (it is sufficient to ...), n. 144: *... anticipare licet (... may be anticipated)*; n. 145: *... quod convenienter servatur (... which it is fitting to observe)*; n. 147: *... valde opportune ... ob iustum causam ... per rationabile tempus protractum ...* (... it is most fitting that ... for a just cause ... for a reasonable length of time ...). See RICHSTATTER, *Liturgical Law*, p. 52.

¹³⁴ (1) *Breviarum Romanum ex decreto SS. Concilii Tridentini restitutum, Summorum Pontificum cura recognitum, cum textu psalmodum e versione Pu Papae XII auctoritate edita. Editio typica*, Rome, Typis Polyglottis Vaticanis, 1961; (2) *Missale Romanum ex decreto SS. Concilii Tridentini restitutum, Summorum Pontificum cura recognitum. Editio typica* Rome, Typis Polyglottis Vaticanis, 1962.

1.5.2 – Reform of the *Pontificale Romanum*

Before its revision in 1961, F.R. McManus observed that the *Pontificale Romanum* provides “striking testimony to the static condition of the Western liturgical forms.” Unlike the missal and breviary which had shown some development since their initial promulgation in the sixteenth century, “the text of the Roman Pontifical has remained almost literally unchanged for more than 350 years.”¹³⁵ A reform of the *Pontificale Romanum* was deemed necessary and Pius XII entrusted it to the pontifical commission for the general restoration of the liturgy. After his death, John XXIII directed that the project be continued and completed despite the fact that preparation was already underway for the upcoming ecumenical council. The second part of the *Pontificale Romanum* was promulgated on 13 April 1961 and published in January 1962.¹³⁶ The Congregation for Sacred Rites clarified that the rites, rubrics, and Gregorian chant given in the preceding editions ceased to be obligatory.¹³⁷

The *Pontificale Romanum*, containing the rituals for the celebrations of sacraments and sacramentals reserved to bishops, is divided into three parts. The first part contains the rites of confirmation, holy orders, and related sacramentals. The third part provides the rites and texts for special occasions, such as the blessing of the oils on Holy Thursday, visitation of parishes, and the celebration of a synod. But it was the second part of the *Pontificale Romanum*, containing the texts for the principal consecrations and blessings of sacred places and objects, that was significantly revised. A. Ward and C. Johnson observed that

¹³⁵ F.R. MCMANUS, “The New Pontifical,” in *Worship*, 36 (1962), pp. 272

¹³⁶ CONGREGATION FOR SACRED RITES, Decree promulgating the new *editio typica* of the second part of the Roman Pontifical, 13 April 1961, in *Ephemerides liturgicae*, 76 (1962), p. 210, *Pontificale Romanum*, pars secunda, *editio typica emendata*, Rome, Typis Polyglottis Vaticanis, 1961. This edition has been photostatically reproduced in A. WARD and C. JOHNSON (eds.), *Pontificale Romanum: reimpressio editionis iuxta typicam anno 1962 publici iuris factae*, Rome, CLV-Edizioni liturgiche, 1999 (=WARD, *Pontificale Romanum*).

¹³⁷ *Idem*, Declaration concerning the revised typical edition of the second part of the Roman Pontifical, 2 January 1962, in *AAS*, 54 (1962), p. 51, English translation in *CLD*, 5, pp. 153-155.

[t]he essential difference in the 1961-1962 edition lies in the consolidation of the second part into a revised complex of rites centered on the dedication of a church. Some superfluous elements and positioning of material which obscured the life of the rite were remedied, repetitions attenuated, texts restored according to critical editions, and dispositions given that would help facilitate the participation of the faithful.¹³⁸

In addition to eliminating a number of obsolete and rarely used blessings, for such things as crosses and armor for crusaders, the revised pontifical also contained two new rites.¹³⁹ The first new rite consisted of a brief blessing of an *antimension*, that is, a small cloth with relics enclosed, borrowed from Eastern liturgical usage and employed by special indult in place of portable altars. The second new rite consisted of the blessing of a church. The *Rituale Romanum* already contained a rite of blessing for a new church intended for a priest celebrant. Since this rite was often celebrated by a bishop rather than a priest, the new pontifical added this rite, which is less solemn than the rite of dedication and consecration of a church.

Perhaps the most striking feature of the new *Pontificale Romanum* was its insistence upon the active participation of the faithful. F.R. McManus observes that

[t]hroughout the new Pontifical the responses of the people are mentioned repeatedly at the beginning of each important rite, at the litanies, wherever there might be doubt or hesitation. Even the conclusion of the consecratory prefaces, formerly said by the bishop in a low voice

¹³⁸ WARD, *Pontificale Romanum*, p xxv

¹³⁹ The rites and blessings eliminated from the 1961 *editio typica* include (1) *Ordo benedictionis aquae pro reconciliatione Ecclesiae ab Episcopo faciendae*, (2) the rite *De Benedictione et impositione Crucis proficientibus in subsidium, et defensionem Fidei christianae seu recuperationem Terrae Sanctae*, (3) the *De Benedictione armorum*, (4) the *De Benedictione ensis*, (5) the *De Benedictione et traditione vexilli bellici*, (6) the *De Expulsione publice poenitentium ab ecclesiae in Feria Quarta cinerum*, (7) the *De Reconciliatione poenitentium quae fit in Feria Quinta Coenae Domini*, (8) the *Ordo Suspensionis, reconciliationis, depositionis, dispensationis, degradationis, et restitutionis Sacrorum Ordinum*, (9) *Ordo excommunicandi et absolventi*, (10) the *Ordo ad reconciliandum apostatam, schismaticum vel haereticum*, (11) the *Ritus Benedicendi novam ecclesiae frontem et signum Crucis super eam erigendum*, (12) the *De Benedictione et coronatio regis*, (13) the *De Benedictione et coronatione reginae*, (14) the *De Benedictione et coronatione reginae solius*, (15) the *De Benedictione et coronatione reginae ut regini dominae*, (16) the *De Benedictione et coronatione regis in consortem electi*, (17) the *De Benedictione novi militis*, (18) the *De Creatione militis regularis*, (19) the *Ordo ad recipiendum processionalter regem*, (20) the *Ordo ad recipiendum processionalter principem magnae potentiae*, (21) the *Ordo ad recipiendum processionalter imperatricem vel regnam*, (22) the *Ordo ad recipiendum processionalter principissam magnae potentiae*, (23) the *De Scrutinio serotino quo antiquae utebantur antequam electus in Episcopum consecraretur*, (24) the *De Barba tondenda*, and (25) the *De Officio psalmistatus*. These texts have been reproduced in WARD, *Pontificale Romanum*, pp 461-527

according to a very unsatisfactory rubric, will be chanted, precisely to invite the solemn response of all the people ¹⁴⁰

Similarly, specific references are made to the role of the faithful in various processions and to participation with the choir. This renewed emphasis on the participation of the faithful confirms that “popular response and activity belong in every liturgical rite as the natural and indeed supernatural expression of common worship.”¹⁴¹ It is not surprising, then, that the active participation of the faithful would receive considerable attention in *Sacrosanctum concilium*, issued only two years after the promulgation of the revised *Pontificale Romanum*.

1.5.3 – Restoration of the Catechumenate

The order of the baptism of adults originated from various rites and ceremonies through which catechumens, as they progressed through various grades of Christian initiation, were brought to baptism. Over centuries, the component parts in the order of adult baptism, consisting of various prayers, blessings and exorcisms, became conflated and reduced to single liturgical rite. The result was an order which appeared “to be confused, repetitious, and burdensome.”¹⁴² Recognizing the usefulness of restoring the various rites pertaining to the instruction of catechumens, the Sacred Congregation of Rites promulgated a revised *Ordo Baptismi adultorum*, consisting of seven degrees.¹⁴³ The revised *ordo* was to be inserted into the *Rituale Romanum*, yet remained optional according to the discretion of local ordinaries.

¹⁴⁰ F.R. MCMANUS, “The New Pontifical,” in *Worship*, 36 (1962), pp. 275-276.

¹⁴¹ *Ibid*, p. 276

¹⁴² F.R. MCMANUS, “The Restored Liturgical Catechumenate,” in *Worship*, 36 (1962), p. 538 (=MCMANUS, “The Restored Liturgical Catechumenate”).

¹⁴³ CONGREGATION FOR SACRED RITES, General decree promulgating a revised *Ordo Baptismi adultorum*, 16 April 1962, in *AAS*, 54 (1962), pp. 310-311, English translation in *CLD*, 5, pp. 401-406. A new *editio typica* of the Roman Ritual was prepared but not published “because the Vatican bookstore was afraid it would not be able to sell it with the Council on the horizon” (A. BUGNINI, *The Reform of the Liturgy, 1948-1975*, trans. M. O'CONNELL, Collegeville, MN, Liturgical Press, 1990, p. 10 [=BUGNINI, *The Reform of the Liturgy*]). As such, the last *editio typica* of the *Rituale* before the Second Vatican Council remained that of 1952.

The catechumenate was divided into seven degrees. The first concerned the spiritual preparation of the catechumens, consisting of the conferral of a name, catechetical instruction, the act of turning away from error, and the first solemn sign of the cross. The second degree, celebrated after instruction was underway, consisted of the ancient practice of tasting salt with accompanying prayers and blessing. This practice symbolizes the catechumens growing desire for the Christian faith. The third, fourth, and fifth degrees each imparted a solemn exorcism. Clearly, these rites were exceedingly repetitious when performed during a single celebration. The sixth degree marked the solemn entry of the catechumens into the church building, including the recitation of the creed and the Lord's prayer, the last exorcism, and the anointing with the oil of catechumens. The seventh and final degree was the actual baptismal rite, including the conferral of confirmation and the first reception of Holy communion.

The decree of promulgation recommended that the rites of adult baptism "are performed with greatest possible solemnity in the presence of the Christian people; the rites must be well prepared, so that the catechumens may draw greater profit from them" (n.4). To ensure this, the vernacular was permitted for all parts of the rite, except the exorcisms, the formulas for the anointings and blessings, and the form of baptism itself (n. 5).¹⁴⁴ The vernacular translations were to be prepared and approved by episcopal conferences. This was the first time that such competence was given to conferences of bishops – outside missionary territories – to establish a special commission for the preparation of a vernacular translation. No prior review of the Holy See was required for the translation prepared by an

¹⁴⁴ McManus notes, with some degree of irony, that the provisions for the fairly liberal use of the vernacular in the order of adult baptism came only two months after the apostolic constitution *Veterum sapientia*, 22 February 1962, on the promotion of Latin studies (see 3 1 1 1 below) He notes "At the very least it sharply corrects the view of those who felt that the constitution on Latin studies for the clergy put an end to the vernacular developments in the liturgy" (MCMANUS, "The Restored Liturgical Catechumenate," p 540)

episcopal conference of a nation or territory or local ordinary (n. 5). The translations were to be approved for no longer than ten years, so as to ensure that they be constantly updated “to the progress of the language” (n. 6). The present law, c. 838, § 3, requiring the prior approval of the Holy See for vernacular translations remains in sharp contrast to these provisions.

In the midst of these liturgical reforms, preparation was underway for the forthcoming ecumenical council. While the work of the preparatory commission coincides with the pontificate of John XXIII and the reforms which have been discussed above, treatment of this will follow in the following chapter. The reasons for this are obvious. The drafts prepared by the preparatory commission for the constitution on the sacred liturgy are only valuable in light of the document that was eventually approved by Council fathers in 1963. As such, a brief consideration of the work of the preparatory commission will precede our treatment of *Sacrosanctum concilium* in the following chapter, serving as an appropriate point of comparison.

Conclusion

Over the course of the twentieth century, the Holy See’s assessment of the liturgical movement was increasingly favourable. Incrementally, significant revisions were introduced into the principal liturgical books of the Roman rite, while corresponding disciplinary liturgical laws were reformed accordingly. The revision of liturgical books, the restoration of liturgical rites, the promotion of sacred music and the active participation of the faithful all served as important precursors to a more intentional and pervasive reform following the Second Vatican Council.

This chapter has endeavored to provide a brief overview of the more significant liturgical reforms of the past century, which were both a result of, and contribution to, the liturgical movement. The purpose of this survey is not merely to provide an historical overview, but to identify significant legislative developments and changes legitimately introduced into the principal liturgical books of the Roman rite. Permission to celebrate Mass and other sacraments according to their pre-conciliar forms must include the most recent pre-conciliar textual and rubrical reforms incorporated into the liturgical books. This point, of course, is especially important in light of the new provisions of *Summorum Pontificum* and the increasing proliferation of Masses celebrated according to the *Missale Romanum* of 1962.

Below is a summary of principles, gleaned from the reforms noted above, which are frequently attributed to *Sacrosanctum concilium* and the general liturgical reform following the Second Vatican Council. They are identified here, by way of conclusion, to demonstrate that many of the alleged innovations of *Sacrosanctum concilium* possess, in fact, a solid historical and legislative precedent. When celebrating the sacraments according to their pre-conciliar forms, in agreement with the provisions of *Summorum Pontificum*, the following must be kept in mind.

- 1) **Sacred Music.** The importance of sacred music and its proper relationship to the sacred liturgy has been recalled on numerous occasions. In fact, it was Guéranger's concern for sacred music and the restoration of Gregorian chant that marked the earliest phase of the liturgical movement. The preeminent place of Gregorian chant – the supreme model for sacred music – is strongly affirmed. Despite admonitions to preserve the Church's musical heritage, however, other forms of music were permitted. These include vernacular hymns and popular religious songs, to be

employed especially where skilled musicians are lacking or where the needs of the faithful recommend their use, such as missionary territories or where the faithful's comprehension of Latin is not especially strong. Many of the groups attached to the earlier liturgical forms are, in fact, quite small. They cannot reasonably be expected to furnish a proficient *schola cantorum* and may well wish to make use of these options.

- 2) **Liturgical Books.** The principal liturgical books of the Roman rite have been frequently revised throughout the past century. This fact reveals not only the theoretical possibility of reforming the liturgical books, but the necessity of doing so in response to contemporary pastoral circumstances. *Summorum Pontificum* has prescribed the use of the 1962 *editio typica* of the *Missale Romanum*, yet one change has already been introduced into the Good Friday liturgy by Benedict XVI.¹⁴⁵ There is no reason to suggest that further revisions cannot be introduced, especially where liturgical texts or rubrics of the 1962 *Missale Romanum* conflict with the fundamental principles enunciated by the Second Vatican Council.
- 3) **Competent Authority.** The 1917 Code of Canon Law affirmed that the Holy See alone possesses the competency to order the sacred liturgy and approve liturgical books. Since Vatican II, the complementary role of diocesan bishops and conferences of bishops has been recognized by the Holy See and is incorporated into the law of the 1983 Code of Canon Law (c. 838). Those adhering to earlier liturgical forms must do so within the context of a particular church, observing the

¹⁴⁵ SECRETARIAI OF STATE, Note concerning the change to the Good Friday prayer for the Jews, 4 February 2008, in *L'Osservatore Romano*, vol 148, no 31 (6 February 2008), p 1, English translation in *L'Osservatore Romano*, weekly English edition, 41 (13 February 2008), p 12. This topic will be considered more thoroughly in chapter five.

regulations duly established for a diocese or territory by the competent authority. This will have enormous consequences in matters such as the observance of holy days of obligation or their transfer (*CIC/83*, c. 1246, §2), regulating fasts and abstinences (*CIC/83*, c. 1253), determining the appropriateness of pious practices (*CIC/83*, c. 839, §2) and methods of sacramental preparation (*CIC/83*, 843, §2), and the approval of special collections (*CIC/83*, c. 1266).

- 4) **Use of the Vernacular.** The use of the vernacular in the liturgy is often mistakenly attributed to the Second Vatican Council or, for those opposed to the pervasive use of the vernacular, a gross misinterpretation of its rather cautious provisions. As noted above, a limited use of the vernacular in the sacred liturgy was permitted even before the Second Vatican Council and, on occasion, was even encouraged to ensure the intelligibility of the sacred rites and promote the active participation of the faithful. This is especially true with the proclamation of sacred scripture. It is no surprise, then, that *Summorum Pontificum* makes an explicit provision for the readings to be given in the vernacular (*SP*, art. 6).
- 5) **Simplification of Rubrics.** In the final simplification of the rubrics before the Second Vatican Council, John XXIII acknowledged that “[t]he consequent growth of the system of rubrics has sometimes been unsystematic and detrimental to the original clarity and simplicity of the whole system” (*RI*, introduction). It was for this reason that John XXIII simplified the rubrics in 1960 and similarly the reason that the Council Fathers called for a further simplification of the rites themselves in *Sacrosanctum concilium* (*SC*, n. 50). The body of rubrics which govern the celebration of the 1962 *Missale Romanum* remain those which were promulgated on the initiative of John XXIII and later incorporated into the 1962 *editio typica* itself. In specifying

the use of the 1962 *editio typica* of the *Missale Romanum*, Benedict XVI has precluded recourse to earlier rubrics which had hitherto prefaced the *Missale Romanum*.

6) **Christian Initiation.** The last *editio typica* of the *Rituale Romanum* before the Second Vatican Council remains that of 1952. Despite this, a significant revision of the *Rituale* was introduced concerning the baptism of adults. A new order of baptism of adults, by which catechumens progress through various degrees of instruction and initiation, was promulgated in 1962. This new rite was to be inserted into the *Rituale Romanum*, yet no new *editio typica* was prepared or published. Like the use of the vernacular noted above, the restoration of the catechumenate has been erroneously attributed to the liturgical reform that followed the Second Vatican Council and is frequently confused with the Rite of Christian Initiation of Adults, duly promulgated in 1972. Where *Summorum Pontificum* speaks of the use of the “earlier ritual” for the administration of the sacrament of baptism (art. 9, §1), it seems quite reasonable to assert that this new order of adult baptism is implicated as well, despite its absence from the 1952 *editio typica*.

7) **Fasting and Frequent Communion.** Various measures were taken throughout the past century to facilitate greater access to the celebration of Mass and, in turn, the frequent reception of communion. Evening Masses were increasingly permitted by Pius XII due to general causes that were making it difficult for priests to celebrate the Eucharistic sacrifice and for the faithful to receive communion while observing the extant Eucharistic fast. The fast was mitigated on a number of occasions by both Pius X and Pius XII to facilitate the reception of communion during the celebration of Mass. Indeed, the faithful are exhorted to receive communion frequently and worthily. Attempts to dissuade the frequent reception of communion for those

properly disposed or to impose a more rigorous fast upon the faithful is explicitly reprimanded. Equally unjustifiable is the distribution of communion at an improper time during the Mass itself, or preceding or following its celebration without a just cause. This practice is expressly reprobated in the code of rubrics approved by John XXIII and incorporated into the 1962 *editio typica* of the *Missale Romanum* (cf. n. 502).

- 8) **Liturgical Year.** Beginning with Pius X, attempts were made to restore the calendar of the Latin Church to its original arrangement and style. This chiefly consisted in affirming the priority of the temporal cycle over the sanctoral and recognizing the preeminent place of Sunday throughout the liturgical year. Similarly, Pius XII and John XXIII each introduced significant simplifications into the rubrics and provided a renewed ranking of liturgical days according to their relative order of precedence. By contemporary standards, the classification of liturgical days remained fairly complex. Nevertheless, the primary place of Sunday as the weekly celebration of Christ's resurrection was not a concept recovered by *Sacrosanctum concilium* (cf. *SC*, nn. 108, 111) but was explicitly affirmed before the Second Vatican Council and incorporated into the rubrics prefacing the *Breviarum Romanum* and the *Missale Romanum* respectively.
- 9) **Active Participation.** The *participatio actuosa* of the faithful, required by the very nature of liturgical worship itself, was affirmed by Pius X already in 1903. Incrementally, this principle resulted in noteworthy legislative developments whereby the faithful's vocal participation was not only tolerated but actively and directly encouraged. In one way or another, nearly all the legislative developments noted throughout this chapter have served to promote the active participation of the faithful in the sacred liturgy. Although the Church's desire that the faithful be led to

a “full, conscious, and active participation” in liturgical celebrations was most forcefully made in *Sacrosanctum concilium* (cf. *SC*, n 14), it did not originate with the Second Vatican Council. Celebrations of the sacraments according to their pre-conciliar forms, then, must not tolerate a return to liturgical passivity, whereby devotional exercises or mere attendance serve as acceptable replacements to genuine liturgical participation. Rather, an appreciation of the value of the faithful’s *participatio actiuosa* can and must assist with the proper and fruitful implementation of the provisions of *Summorum Pontificum*. Means by which this can occur will be explored in the following chapters.

This enumerated list serves to illustrate that many of the principles attributed to *Sacrosanctum concilium* emerged much earlier, albeit in a modest and circumscribed manner. Although these principles received further elucidation in *Sacrosanctum concilium* and broader application in the liturgical reform which followed, they are not foreign to the celebration of the liturgy prior to the Second Vatican Council. Despite accusations to the contrary, often by those attached to earlier liturgical forms, *Sacrosanctum concilium* and the liturgical reform which it precipitated represent not a rupture within the liturgical tradition of the Latin Church, but a faithful continuation of the reform initiated decades earlier. In that perspective, the ostensible contradiction between the two editions of the *Missale Romanum* is more easily resolved and the reconciliation Benedict XVI hopes to achieve through *Summorum Pontificum* thereby becomes ever more promising.

CHAPTER II

THE SECOND VATICAN COUNCIL AND POST-CONCILIAR LITURGICAL REFORM

Introduction

The previous chapter endeavored to provide a broad overview of the liturgical reforms of the Holy See prior to the Second Vatican Council. It proceeded in a chronological manner and concluded by identifying a number of principles which are often mistakenly attributed to *Sacrosanctum concilium* and the reforms introduced after the Second Vatican Council. Given the complexity and scope of the present chapter, it will not be possible to proceed in a like manner. While chapter II begins chronologically with the Second Vatican Council and its Constitution on the Sacred Liturgy, *Sacrosanctum concilium*, the chapter will proceed to examine notable post-conciliar liturgical reforms selectively and thematically, that is, according to the revision of the principal liturgical books of the Roman Rite – the *Missale Romanum*, the *Rituale Romanum*, the *Pontificale Romanum*, and the *Breviarium Romanum*. Since *Summorum Pontificum* does not permit the unrestricted use of these pre-conciliar editions, attention will be paid exclusively to the sacramental rites which *Summorum Pontificum* explicitly permits, namely, the sacraments of the Eucharist, baptism, confirmation, penance, anointing of the sick, and marriage. In addition to examining the reforms introduced into the principal liturgical books of the Roman rite, chapter II also considers the revision of the *Calendarium Romanum*, as it broadly affects the liturgy in general, as well as the reform of sacred music and liturgical furnishings.

Following treatment of *Sacrosanctum concilium* and the initial post-conciliar liturgical reform, each subsequent section adopts a similar pattern, identifying (1) the applicable norms of *Sacrosanctum concilium* and subsequent instructions or directives of the Holy See; (2) the principal reforms introduced into the sacramental rite and accompanying discipline; and,

finally, (3) potential areas of conflict between the provisions of *Summorum Pontificum* and the current *ius vigens*. The purpose of this examination is not so much to provide an exhaustive treatment or to rehearse material readily available elsewhere, but to identify potential areas of conflict between what is permitted by *Summorum Pontificum* and the present body of liturgical law, contained both within and outside the 1983 Code of Canon Law. Other sacraments and sacramentals, such as Holy Orders, funerals, and various blessings, and the use of other pre-conciliar liturgical books, such as the *Caeremoniale Episcoporum*, will be addressed in chapter V, as licit use of their pre-conciliar form remains a disputed point.

2.1 – The Constitution on the Sacred Liturgy

Shortly after his election, and to the surprise of many, John XXIII made known his intention to convoke an ecumenical council and a synod for the Diocese of Rome. This two-fold celebration would lead, according to the newly elected pontiff, to the long awaited reform of the Code of Canon Law. The intended ecumenical council would be the first of its kind since Vatican Council I (1869-1870) and only the second since the Council of Trent (1545-1563).¹ John XXIII subsequently expressed his expectations for the forthcoming council:

This fond hope compelled Us to make public Our intention to hold an Ecumenical Council. Bishops from every part of the world will gather there to discuss serious religious topics. They will consider, in particular, the growth of the Catholic faith, the restoration of sound morals among the Christian flock, and appropriate adaptation of Church discipline to the needs and conditions of our times. This event will be a wonderful spectacle of truth, unity, and charity. For those who behold it but are not one with the Apostolic See, We hope that it will be a gentle invitation to seek and find that unity for which Jesus Christ prayed so ardently to His Father in heaven.²

¹ JOHN XXIII, Address to Roman Cardinals announcing an ecumenical council, 25 January 1959, in *AAS*, 51 (1959), pp. 65-69, English translation in *The Pope Speaks*, 5 (1959), pp. 398-399. This announcement was made to a small gathering of Roman Cardinals following Mass at the Basilica of Saint Paul outside the Walls in the adjoining cloister of the Benedictine Monastery.

² *Idem*, Encyclical Letter on the advance of truth, unity, and peace in a spirit of charity *Ad Petri Cathedram*, 29 June 1959, in *AAS*, 51 (1959), pp. 497-531, English translation in *The Pope Speaks*, 5 (1959), p. 369.

Preparation began four months after the initial announcement with the constitution of the ante-preparatory commission, composed of various members of the Roman Curia and chaired by the then-Secretary of State, Domenico Cardinal Tardini. This commission was assigned four principal tasks: (1) to solicit advice and suggestions from the Catholic bishops of various countries, as well as the theological and canonical faculties of Catholic universities; (2) to collect the proposals made by dicasteries of the Roman Curia; (3) to trace the broad outlines of topics to be addressed in the council; and (4) to suggest a composition of the different bodies (commissions, secretariats, etc.) which would subsequently prepare for the ecumenical council during the immediate preparatory phase.³ The responses from bishops, university faculties, and members of the Roman Curia were assembled for use by the preparatory commissions following the close of the ante-preparatory phase.⁴

The preparatory commissions, established by John XXIII on 5 June 1960, were presided over by a central commission to oversee the work of the individual commissions and, where necessary, coordinate their activities.⁵ The tasks of the preparatory commissions were to make use of the *acta* of the ante-preparatory phase and prepare *schemata* for use at the council. The liturgical preparatory commission was chaired by the then-prefect of the

³ JOHN XXIII, Constitution of the ante-preparatory commission for the ecumenical council, 17 May 1959, in *Acta et documenta Concilio Oecumenico Vaticano II apparando*, Series I (Antepreparatoria), Vatican City, Typis Polyglottis Vaticanis, 1960, vol. I: *Acta Summi Pontificis Ioannis XXIII*, pp. 22-23.

⁴ The acts and documents of the ante-preparatory phase are contained in *Acta et documenta Concilio Oecumenico Vaticano II apparando*, Series I (Antepreparatoria), 4 vols., Vatican City, Typis Polyglottis Vaticanis, 1960.

⁵ JOHN XXIII, Apostolic letter *motu proprio* establishing the preparatory commissions for the Second Vatican Council *Superno Dei*, 5 June 1960, in *AAS*, 52 (1960), pp. 433-437, English translation in *CLD*, 5, pp. 239-243. The ten preparatory commissions consisted of the following: (1) theological commission, responsible for questions concerning Holy Scripture, Tradition, and faith practices; (2) bishops and diocesan government; (3) discipline of the clergy and faithful; (4) religious; (5) discipline of the sacraments; (6) sacred liturgy; (7) studies and seminaries; (8) eastern churches; (9) missions; (10) lay apostolate. A secretariat was established to deal with questions concerning social communication and, as an expression of good will towards baptized non-Catholics, an additional secretariat was established to facilitate their participation.

Congregation for Sacred Rites, Cardinal Cicognani, and Annibale Bugnini served as its secretary. The official *Quaestiones* proposed for the commission included appropriate reforms of the calendar; the texts and rubrics of the Mass; other sacred rites; the sacraments, including baptism, confirmation, extreme unction, and marriage; the breviary; the use of the vernacular; and liturgical vestments.⁶ The liturgical commission was not confined to this structure, and additional subcommissions were formed to deal with sacramental concelebration, liturgical formation, participation of the faithful, linguistic adaptation, sacred music, and sacred art, in addition to those already noted above. One final subcommission was formed to prepare a doctrinal prologue on the mystery of the sacred liturgy and its relation to the life of the Church.⁷

After working independently for a period, the reports of each subcommission were compiled and discussed, and a draft schema was prepared by the secretariat of the liturgical preparatory commission. The text was approved by the plenary assembly of the preparatory commission and signed by its president on 1 February 1962.⁸ The schema received further revisions after its submission to the central preparatory commission.⁹ Bugnini identifies the principal revisions introduced into the text:

⁶ See *Acta et documenta Concilio Oecumenico Vaticano II apparando*, Series II (Praeparatoria), 3 vols, Vatican City, Typis Polyglottis Vaticanis, 1965, vol. II, pars I, p. 412.

⁷ An outline of the thirteen subcommissions of the liturgical preparatory commission and details of their precise responsibilities can be found in C. BRAGA, "La 'Sacrosanctum concilium' nei lavori della Commissione preparatoria," in *Notitiae*, 20 (1984), pp. 114-117. For the distribution of members, see BUGNINI, *The Reform of the Liturgy*, pp. 15-16

⁸ The text, as approved by the liturgical preparatory commission, can be found in *Acta et documenta Concilio Oecumenico Vaticano II apparando*, Series II (Praeparatoria), Typis Polyglottis Vaticanis, 1969, vol. III, pars II, pp. 9-68. For a detailed examination of the history of the text, see BUGNINI, *The Reform of the Liturgy*, pp. 17-28; P. JOUNEL, "Genèse et théologie de la constitution Sacrosanctum Concilium," in *La Maison-Dieu*, 155 (1983), pp. 7-29; "Les étapes préparatoires du schema de la constitution sur la liturgie," in *La Maison-Dieu*, 155 (1983), pp. 31-53; C. BRAGA, "La 'Sacrosanctum concilium' nei lavori della Commissione preparatoria," in *Notitiae*, 20 (1984), pp. 117-134.

⁹ The *schema* was discussed by the central preparatory commission between 26 March and 2 April 1962. The discussions of the central preparatory commission are compiled in *Acta et documenta Concilio*

[T]he *declarationes*, so useful in helping nonspecialists to understand the text, had been completely eliminated; the decentralization so ardently sought was ‘watered down’ (local authorities could only make suggestions to the Holy See); nothing was said of communion under both kinds for the laity, concelebration was limited to a few occasions; no reference was made to the use of the vernacular by priests celebrating the Divine Office¹⁰

Furthermore, appended to the title page of the schema distributed to the Council Fathers was an important qualifying statement: “The sole purpose of this Constitution is to provide general norms and the ‘fundamental principles governing general liturgical reform’ (cf. JOHN XXIII, *motu proprio Rubricarum instructum* of 25 July 1960), leaving it to the Holy See to implement the individual matters.”¹¹

The alterations introduced into the *schema* by the central preparatory commission were made known to the Fathers of the Council thanks to a widely distributed list prepared by A.-G. Martimort.¹² Accordingly, a number of Council Fathers demanded a copy of the *schema* that had originally been sent to the central preparatory commission, including the clarifying *declarationes* that had prefaced each paragraph. Between 22 October and 13 November 1962, the Council Fathers discussed the proposed *schema*, proposing in both oral interventions and written submissions amendments (*emendationes*) or changes (*modi*) to the text. The conciliar commission on the liturgy collated these submissions and prepared fascicles containing both the original and amended text in corresponding columns so as to

Oecumenico Vaticano II apparando, Series II (Praeparatoria), Typis Polyglottis Vaticanis, 1968, vol. II, pars III, pp 26-144, 275-368, 460-490.

¹⁰ BUGNINI, *The Reform of the Liturgy*, p. 26.

¹¹ “Nota: Huius Constitutionis mens est: tantum normas generales et «aliora principia, generalem liturgicam instaurationem respicientia» (cf. IOANNES XXIII, *Motu Proprio Rubricarum instructum* diei 25 iulii 1960) proponere, relinquendo Sanctae Sedi singula executioni demandare.” See *Schemata constitutionem et decretorum de quibus disceptabitur in Concilio sessionibus*, Typis Polyglottis Vaticanis, 1962-1963, vol. 1, p. 155.

¹² A.-G. MARTIMORT, “Les débats liturgiques lors de la première période du Concile Vatican II (1962),” in É. FOUILLOUX (ed.), *Vatican II Commence ... : Approches Francophones*, Leuven, Bibliotheek van de Faculteit der Godgeleerdheid, 1993, p. 293, footnote 7.

clearly identify the changes introduced. Furthermore, the *declarationes* from the original liturgical *schema* were included in an appendix.¹³

On 7 December 1962, the Council Fathers were able to approve the preamble and first chapter before the close of the first session.¹⁴ The following day, John XXIII addressed the Council and expressed his satisfaction with the results:

It was no accident that the first *schema* to be considered was the one dealing with the sacred liturgy. The liturgy has to do with man's relationship with God. This relationship is of the utmost importance. It must be based on the solid foundation of revelation and apostolic teaching, so as to contribute to man's spiritual good; and that, with a broadness of vision which avoids the superficiality and haste often characterizing relationships among men.¹⁵

On 3 June 1963, when the Council was in recess, John XXIII died. He was succeeded by Paul VI, elected on 21 June 1962. The next day, in a radio address, Paul VI made known his intention to continue the Second Vatican Council.¹⁶ In accordance with *CIC/17*, c. 222, §1, Paul VI determined that the Council would reconvene on 29 September 1963.¹⁷

At the beginning of the second session, the remainder of the *schema* on the liturgy was examined and discussed by the Council Fathers. In preparation for the final votes, the changes (*modi*) introduced by the conciliar commission in response to the earlier discussions

¹³ The *emendationes a Patribus conciliaribus postulatae a commissione conciliari de sacra Liturgia examinatae et propositae* are reproduced in *Acta Synodalia sacrosancti concilii oecumenici Vaticani II*, 6 vols., Typis Polyglottis Vaticanis, 1970- (=AS): The preamble and chapter I (AS, vol. 1: periodus prima, pars III, pp. 114-115; 693-701; AS, vol. 1: periodus prima, pars IV, pp. 166-170, 266-277, 322-326); chapter II (AS, vol. II: periodus secunda, pars II, pp. 280-289, 295-308); chapter three (AS, vol. II: periodus secunda, pars II, pp. 548-571); chapter four (AS, vol. II: periodus secunda, pars III, pp. 114-146); chapter five (AS, vol. II: periodus secunda, pars III, pp. 264-277); chapter six (AS, vol. II: periodus secunda, pars III, pp. 576-590); chapter seven (AS, vol. II: periodus secunda, pars IV, pp. 10-27).

¹⁴ When voting on the proposed corrections, the Council Fathers could express their agreement (*placet*) or disagreement (*non placet*) on a written ballot. When voting on the individual chapters, the Council Fathers had an additional option of voting in agreement but with reservations (*placet iuxta modum*). A reproduction and explanation of the ballot can be found in AS, vol. 1: periodus prima, pars I, pp. 18-22.

¹⁵ JOHN XXIII, Address at the close of the first session of the Second Vatican Council, 8 December 1962, in *AAS*, 55 (1963), pp. 35-41, English translation in *The Pope Speaks*, 8 (1962-1963), p. 400.

¹⁶ PAUL VI, First public address *Qui fausto die*, 22 June 1963, in *AAS*, 55 (1963), pp. 570-578, English translation in *The Pope Speaks*, 9 (1963), pp. 78-83

¹⁷ See *AAS*, 55 (1963), p. 581.

and interventions were distributed, in booklet form, to the Council Fathers.¹⁸ Each chapter was subjected to a vote, necessarily requiring a two-third majority. After accepting the examination of the *modi* and approving all the chapters, a vote on the entire liturgical *schema* took place.¹⁹ At a public session on 4 December 1963, the four hundredth anniversary of the closing of the Council of Trent, the Council Fathers overwhelmingly expressed confidence in the document by a vote of 2147 in favour and four against. The Pope read the formula of approval, acknowledging that the decisions were made in a conciliar manner:

In the name of the Most Holy and undivided Trinity, of the Father and the Son and the Holy Spirit. The fathers have expressed their agreement with the decrees just read out in the presence of this legitimately assembled Sacred and Ecumenical Second Vatican Council. And We, in virtue of the apostolic authority given to Us by Christ, and in union with the reverend fathers, approve, establish, and ordain them in the Holy Spirit, and We order that what the Council has so ordained be published for the glory of God.²⁰

The norms promulgated in the new Constitution on the Liturgy would not take effect until the first Sunday of Lent, 16 February 1964.

Bugnini observed that although the *schema* was reviewed by four “courts” – the central preparatory commission, its subcommission for changes, the council itself, and the conciliar liturgical commission – no substantial changes were introduced into the text prepared by the liturgical preparatory commission.²¹ The most significant and problematic

¹⁸ The booklets of the *Modi a Patribus conciliaribus propositi, a Commissione Conciliari de sacra Liturgia examinati* were distributed separately, corresponding to the chapters of the *schema*. These have been reproduced in *AS*, vol. II: periodus secunda, pars V, pp. 496-526 (preamble and chapter one); pp. 575-596 (chapter two); pp. 637-650 (chapter three); pp. 701-724 (chapter four), pp. 725-743 (chapters five, six, and seven).

¹⁹ A helpful table documenting the numerous votes which took place on the *schema* and its amendments can be found in H. SCHMIDT, *La Constitution de la Sainte Liturgie: texte, genèse, commentaire, documents*, Bruxelles, Éditions Lumen Vitae, 1966, pp. 240-243.

²⁰ “In nomine Sanctissimae et Individuae Trinitatis, Patris et Filii et Spiritus Sancti. Decreta, quae in hac Sacrosancta et Universalis Synodo Vaticana Secunda legitime congregata modo lecta sunt, placuerunt Patribus. Et Nos, Apostolica a Christo nobis tradita potestate, illa, una cum venerabilibus Patribus, in Spiritu Sancto approbamus, decernimus ac statuimus, et quae ita synodaliter statuta sunt ad Dei gloriam promulgari iubemus” (*AS*, vol. II periodus secunda, pars VI, pp. 407).

²¹ BUGNINI, *The Reform of the Liturgy*, p. 27.

changes introduced by the central preparatory commission, noted by Bugnini above, were reversed by the Council Fathers during the course of debate and revision.²²

The approved document is comprised of seven chapters and an appendix concerning the revision of the liturgical calendar. A short preamble (nn. 1-4) precedes the first and longest chapter which provides general principles for the reform and promotion of the sacred liturgy. After treating the nature of the liturgy and its importance in the life of the Church (nn. 5-13) and the promotion of liturgical instruction and active participation (nn. 14-20), the chapter proceeds to provide general norms for reform of the liturgy (nn. 21-40). These general norms are then applied concretely in the chapters that follow on the most sacred mystery of the Eucharist (chapter II, nn. 47-58); other sacraments and sacramentals (chapter III, nn. 59-82); the divine office (chapter IV, nn. 83-101); the liturgical year (chapter V, nn. 102-111); sacred music (chapter VI, nn. 112-121); and sacred art and sacred furnishings (chapter VII, nn. 122-130). Before proceeding to examine how these norms were concretely applied during the post-conciliar period, a brief examination of the principles for reform is required.

2.2 – Principles for the Reform of the Liturgy

This section of *Sacrosanctum concilium* begins with an introductory article (*SC*, n. 21) distinguishing the liturgy's immutable, divinely instituted elements from those elements subject to change. The latter "not only may but ought to be changed with the passage of time if they have suffered from the intrusion of anything out of harmony with the inner nature of the liturgy or have become pointless." Both the texts and rites of the liturgy are to

²² A detailed chronicle of the amendments introduced into the *schema* on the liturgy can be found in B KLOPPENBURG, "Chronicle of Amendments of the Constitution," in W BARAUNA (ed) and J LANG (ed of English edition), *The Liturgy of Vatican II*, 2 vols, Chicago, Franciscan Herald Press, 1966, vol 1, pp 71-94 See also BUGNINI, *The Reform of the Liturgy*, pp 32-37

be drawn up so that they express more clearly “the holy things they signify” and that the faithful, as far as possible, “are able to understand them with ease and to take part in the rites fully, actively, and as befits a community” (*SC*, n. 21).

2.2.1 – General Norms

Sacrosanctum concilium, n. 22, then provides three general norms for the reform of the liturgy, the first of which concerns the regulation of the liturgy:

§1 Regulation of the liturgy depends solely on the authority of the Church, that is, on the Apostolic See and, accordingly as the law determines, on the bishop.

§2 In virtue of power conceded by the law, the regulation of the liturgy within certain defined limits belongs also to various kinds of competent territorial bodies of bishops lawfully established.

§3 Therefore, no other person, not even if he is a priest, may on his own add, remove, or change anything in the liturgy.

The first and second paragraphs derogated from c. 1257 of the 1917 Code of Canon Law, which referred exclusively to the authority of the Apostolic See in liturgical matters. No longer does the Apostolic See exercise exclusive competence to order the sacred liturgy and to approve liturgical books but, “as the law determines,” this competence also belongs to the bishops and the competent territorial bodies of bishops. The second general norm concerns balancing the retention of “sound tradition” while remaining open to “legitimate progress.” This is not an easy task and involves careful theological, historical, and pastoral investigation into each part of the liturgy to be revised. *Sacrosanctum concilium* states that “there must be no innovations unless the good of the Church genuinely and certainly requires them; care must be taken that any new forms adopted should in some way grow organically from forms already existing” (*SC*, n. 23). Finally, the third general norm emphasizes the importance of sacred scripture in the celebration of the liturgy. “Thus to achieve the reform, progress, and adaptation of the liturgy, it is essential to promote that warm and living love for Scripture to which the venerable tradition of both Eastern and Western rites gives testimony” (*SC*, n. 24).

2.2.2 – Norms Drawn from the Hierarchic and Communal Nature of the Liturgy

In articles 26-32, *Sacrosanctum concilium* affirms that the liturgy involves the whole Church, the *Populus Dei*. Yet it remains hierarchically ordered, affecting individual members according to their different orders, offices, and actual participation. Communal celebrations, involving the presence and participation of the faithful, are preferred to private celebrations (*SC*, n. 27). Sacred ministers and the laity alike should perform their liturgical function, but only those functions which pertain to the nature of the rite and the principles of the liturgy (*SC*, n. 28). Servers, lectors, commentators, and members of the choir all exercise a “genuine liturgical function.” They ought to fulfill this function with devotion and decorum, imbued with the spirit of the liturgy and after appropriate training (*SC*, n. 29). To promote active participation, the people are to be encouraged to take part by means of acclamations, responses, psalmody, antiphons, and songs, as well as actions and gestures, including silence (*SC*, n. 30). The rubrics themselves, in the revised liturgical books, should make provision for the parts belonging to the faithful (*SC*, n. 31). Although the liturgy makes distinctions between persons according to their function and sacred order, no special honours are to be paid in the liturgy to persons or classes of persons, apart from the liturgical laws providing for due honours to be given to civil authorities (*SC*, n. 32).

2.2.3 – Norms Based on the Teaching and Pastoral Character of the Liturgy

The liturgy, above all, is the “worship of the divine majesty,” yet it also “contains rich instruction for the faithful” (*SC*, n. 33). This includes both descending components, such as scriptural readings and preaching, as well as what ascends to God in prayer, such as the words, signs, symbols, and ritual actions which pervade the entire liturgy.²³ To realize the educative and pastoral character of the liturgy, the rites should be marked by a “noble

²³ J A JUNGSMANN, “Constitution on the Sacred Liturgy,” in H VORGRIMLER (ed), *Commentary on the Documents of Vatican II*, 5 vols, New York, Herder and Herder, 1967, vol 1, p 23

simplicity; they should be short, clear, and unencumbered by useless repetitions; they should be within the people's power of comprehension and as a rule not require much explanation" (SC, n. 34). So that the intimate connection between words and rites may stand out clearly, there is to be more readings from Holy Scripture, and preaching should draw its content from scriptural and liturgical sources. Bible services and explicit liturgical catechesis are encouraged (SC, n. 35). Finally, and perhaps most contentiously, *Sacrosanctum concilium* extended the provisions for use of the vernacular, recognizing that it can frequently be of great advantage to the people. Conferences of bishops were empowered to decide whether and to what extent the vernacular was to be used. Prior to enacting this, of course, the approval of the Holy See was required (SC, n. 36).

2.2.4 – Norms for Adapting the Liturgy to the Culture and Traditions of Peoples

The Church, even in the liturgy, "has no wish to impose a rigid uniformity in matters that do not affect the faith or the good of the whole community." Cultural elements not bound up with superstition and error may be preserved and even admitted into the liturgy itself, "provided they are in keeping with the true and authentic spirit of the liturgy" (SC, n. 37). Consequently, the revised liturgical books should allow for legitimate variation and adaptations to different groups, regions, and peoples, especially in mission lands (SC, n. 38). As well, within the limits established in the *editiones typicae* of the liturgical books, conferences of bishops may specify adaptations, especially in the case of the administration of the sacraments, sacramentals, processions, liturgical language, sacred music, and the arts (SC, n. 39). In some cases, even more radical adaptations may be required. In such cases, conferences of bishops are to propose these adaptations to the Apostolic See (SC, n. 40).

The general norms listed above are indispensable to a proper interpretation and application of *Sacrosanctum concilium*. These norms are frequently invoked by both proponents

and critics of the post-conciliar liturgical reform to validate their respective positions. This is accomplished when norms are removed from their proper context or cited in isolation. As such, these norms have been used to justify nearly any liturgical innovation since the Second Vatican Council, just as they have been employed to reach a rather strict application of the conciliar constitution. Nevertheless, these general norms successfully provide for various circumstances and continue to serve as guiding and operational principles in the reform of the liturgy.

2.3 – Initiating the Reform

Although *Sacrosanctum concilium* specified that it would take effect on the first Sunday of Lent 1964, it was quickly realized that further norms were required to ensure a successful and orderly implementation. Shortly after the promulgation of *Sacrosanctum concilium*, Paul VI issued a *motu proprio*, *Sacram liturgiam*, to accomplish two tasks: firstly, to specify which reforms could, in fact, be implemented immediately; secondly, to establish the *Consilium ad exsequendam Constitutionem de sacra liturgia* (“Consilium”) to implement and organize this liturgical reform.²⁴ The respective competencies of the Congregation for Sacred Rites and the Consilium were initially unclear. The Secretariat of State intervened in two instances. The Consilium was entrusted with the following competencies:

- a. To suggest the names of the persons charged with forming study groups for the revision of rites and liturgical books;
- b. To oversee and coordinate the work of the study groups;

²⁴ PAUL VI, Apostolic letter *motu proprio* on putting into effect some prescriptions of the Constitution on the Sacred Liturgy *Sacram liturgiam*, 25 January 1964, in *AAS*, 56 (1964), pp. 139-144, English translation in *DOL*, n. 20, pp. 84-87. A number of episcopal conferences expressed concern over this *motu proprio* which they perceived as limiting the authority granted to them by *Sacrosanctum concilium*. Particularly troubling was the provision on the approval of vernacular translations. A number of emendations were introduced into the definitive text, published in the *Acta Apostolicae Sedis*, after its initial publication in the *L’Osservatore Romano*. See R. CABIE, “L’affaire du ‘motu proprio’ du 25 janvier 1964,” in *Bulletin de littérature ecclésiastique*, 109 (2008), pp. 41-52; P. MARINI, *A Challenging Reform: Realizing the Vision of the Liturgical Renewal*, Collegeville, MN, Liturgical Press, pp. 19-39 (=MARINI, *A Challenging Reform*); BUGNINI, *Reform of the Liturgy*, pp. 54-59.

- c To prepare carefully an instruction explaining the practical application of the Motu Proprio *Sacram liturgiam* and clearly outlining the competence of territorial ecclesiastical authorities, pending the reform of the rites and liturgical books;
- d To apply, according to the letter and spirit of the Council, the Constitution it approved, by responding to the proposals of the conferences of bishops and to questions that arise involving the correct application of the Constitution.²⁵

Interestingly, appeals of decisions made by the Consilium, as well as the resolution of particularly sensitive, grave, or completely new problems, were to be referred by the Consilium directly to the pope. Promulgation of the revised rites and liturgical books was reserved to the Congregation, but it was deemed appropriate that the decrees of promulgation should also bear the signature of the Cardinal Prefect of the Consilium.²⁶

Tension between these two curial bodies was inevitable, as each had differing expectations of how the Holy See should proceed with the liturgical reform. Marini notes that the Congregation for Sacred Rites wanted to proceed cautiously and avoid a partial reform as this could weary the faithful and potentially compromise the objectives of the reform. The Consilium, on the other hand, proposed a gradual reform, whereby changes to the liturgical rites would be introduced incrementally and at the initiative of conferences of bishops.²⁷ The Consilium's preference prevailed, reflected most notably in *Inter oecumenici*, the first instruction on the proper implementation of the conciliar constitution. The trajectory was now set for a gradual, incremental reform, with provisions for authorized experimentation and considerable adaptations by conferences of bishops.

²⁵ SECRETARIAT OF STATE, Letter to Cardinal G. Lercaro, President of the Consilium, on its responsibilities *Mi onore di comunicare*, 29 February 1964, in KACZYNSKI, *Enchiridion documentum*, vol. 1, p. 45, English translation in *DOL*, n. 77, p. 214.

²⁶ SECRETARIAT OF STATE, Letter to Cardinal A.M. Larraona, Prefect of the Congregation of Rites, on the respective competencies of the Congregation and of the Consilium *Compio il venerato incarico*, 7 January 1965, in KACZYNSKI, *Enchiridion documentum*, vol. 1, p. 116, English translation in *DOL*, n. 82, p. 221.

²⁷ MARINI, *A Challenging Reform*, pp. 67-79. Marini provides correspondence, hitherto unpublished, between the Congregation for Sacred Rites and the Consilium concerning the drafting of *Inter oecumenici*. These documents reveal two rather divergent approaches to the reform of the liturgy. See MARINI, *A Challenging Reform*, pp. 178-197.

The threefold purpose of *Inter oecumenici* was to (1) identify the functions of conferences of bishops in liturgical matters, (2) explain more fully the principles stated in general terms in both *Sacrosanctum concilium* and *Sacram liturgiam*, and (3) authorize or mandate particular measures that could be practicably implemented even before the revision of the liturgical books was complete (*IO*, n. 3). The instruction is modeled on *Sacrosanctum concilium*, beginning with a chapter of general norms and followed by chapters on the Eucharist, other sacraments and sacramentals, the divine office, and provisions for the designing of churches and altars to facilitate active participation of the faithful. The motivation for introducing changes into the liturgy so early after the promulgation of *Sacrosanctum concilium* – before the rites themselves were revised – was to “ever more fully satisfy the conciliar intent on promoting active participation of the faithful.” The instruction affirms the need to proceed gradually and with sufficient catechesis and liturgical formation (*IO*, nn. 5, 11-19).

A second instruction on the implementation of Constitution on the Liturgy, *Tres abhinc annos*, introduced further adaptations into the liturgy before the promulgation of the revised *Missale Romanum* in 1970. *Tres abhinc annos* recalled that the earlier provisions were already bearing much fruit: “an increased, more aware, and intense participation of the faithful everywhere in the liturgy, especially in the holy sacrifice of the Mass.” Yet, the instruction also reaffirmed that regulation of the liturgy depended solely on the Church and reminded competent authorities of their obligation to ensure that liturgical norms are faithfully observed. On numerous occasions during this immediate post-conciliar period, the Consilium and the Congregation for Sacred Rites attempted to curb unauthorized experimentation. In hindsight, this did not prevent abuses from occurring.²⁸

²⁸ See, for example, CONSILIUM, Declaration on liturgical experimentation *Passim quandoque*, 15 June 1965, in *Notitiae*, 1 (1965), p. 145, English translation in *DOL*, n. 29, p. 116, *idem*, Letter to conferences of bishops on furthering the liturgical reform *Le renouveau liturgique*, 30 June 1965, in *Notitiae*, 1 (1965), pp. 257-264,

Tres abhinc annos introduced further changes into the order of Mass, significantly reducing the number of required genuflections (*TAA*, n. 7), kissings of the altar (*TAA*, n. 8), and signs of the cross (*TAA*, n. 9). Modest variations were also introduced into the celebration of the divine office (*TAA*, nn. 19-22) and the rites for the dead (*TAA*, nn. 23-24). The maniple, an ornamental vestment worn on the left arm for the celebration of Mass, was made optional (*TAA*, n. 25). As well, the celebrant was permitted to wear a chasuble for the *Asperges* before Mass on Sundays, for the blessing and imposition of ashes on Ash Wednesday, and for the absolution over a coffin or a grave (*TAA*, n. 26). This simplification reduced the need for altering vestments once celebration of the liturgy had begun. Greater use of the vernacular was also permitted, pending approval of vernacular translations, most notably in the canon of the Mass, all the rites of holy orders, and in the readings of the divine office, even in choral recitation (*TAA*, n. 28).

The most notable changes introduced by these two instructions concerned the *Ordo Missae* and the permission for increased use of the vernacular in the celebration of the sacraments and divine office. A recurring critique of the liturgical reform focuses on the application and implementation of *Sacrosanctum concilium*, rather than on conciliar constitution itself. As such, *Inter oecumenici*, *Tres abhinc annos* and the subsequent directives of the Consilium are perceived as particularly problematic for deviating from the intention of the Council Fathers and exceeding the limits established by *Sacrosanctum concilium*. A more complete examination of opposition to the liturgical reform will be provided in the following chapter.

English translation in *DOL*, n. 31, pp. 117-122, *idem*, Letter to conferences of bishops on problems in the reform of the liturgy *L'heureux développement*, 25 January 1966, in *Notitiae*, 2 (1966), pp. 157-161, English translation in *DOL*, n. 32, pp. 122-125, CONGREGATION FOR SACRED RITES, Declaration repudiating arbitrary liturgical innovations *Da qualche tempo*, 29 December 1966, in *AAS*, 59 (1967), pp. 85-86, English translation in *DOL*, n. 35, pp. 127-128

What follows is an examination of the particular reforms initiated by *Sacrosanctum concilium*. Each section begins by identifying the applicable norms of *Sacrosanctum concilium* and the subsequent instructions or directives of the Holy See. This will be followed by noting the principal reforms introduced into the liturgical rites themselves and the corresponding liturgical discipline. Again, we will limit ourselves to only those sacraments explicitly permitted by *Summorum Pontificum*. Each section will conclude by identifying potential areas of conflict between the provisions of *Summorum Pontificum* and the *ius vigen*s.

2.4 – Reform of the *Calendarium Romanum*

Sacrosanctum concilium sought to recover a proper balance between the temporal and sanctoral cycles, that is, by affirming the primary place of Sunday – the *dies Domini* on which the mysteries of redemption are celebrated – over the feasts of the saints (*SC*, nn. 102, 106). The legitimate but subordinate place of Mary and the saints, proposed to the faithful as exemplars of holiness and worthy of emulation, are to take their rightful place in the annual cycle of Christ’s mysteries (*SC*, nn. 103-104). These celebrations, however, unless they are of great importance, “shall not have precedence over the Sunday, the foundation and core of the whole liturgical year” (*SC*, n. 106). Instead, many feasts of saints “should be left to be celebrated by a particular Church or nation or religious family; those only should be extended to the universal Church that commemorate saints of truly universal significance” (*SC*, n. 111). The Council Fathers decreed that the calendar was to be revised and provided principles for the revision of the liturgical year (*SC*, nn. 107-110).

Paul VI approved the changes to the Roman calendar by means of the *motu proprio Mystere paschalis*, with an effective date of 1 January 1970.²⁹ At a consistory of cardinals, Paul VI described the changes introduced into to the Roman calendar:

You will note that the liturgical year had not undergone any radical change. The aim in reworking it has been to see to it that the elements of each liturgical season focus more clearly on the paschal mystery of Christ as the center of all liturgical worship. The new calendar also ratifies, as far as possible, the celebration of saints' days, choosing saints whose life and example have importance for the universal Church; other saints, less well known, are left to local veneration, in accordance with the true historical import of their lives and feast days. The aim of this approach is to show that holiness in the Church is relevant for all times and all places, and that all the faithful, in every class of society, are summoned to seek after holiness, as the ecumenical council taught in its constitution *Lumen gentium*.³⁰

The *editio typica* of the *Calendarium Romanum* was promulgated on 21 March 1969 by the Congregation for Sacred Rites and included norms for the way in which the liturgical books were to be adapted to the new calendar *ad interim*.³¹

The new calendar provides a remarkable simplification of liturgical days. In the last reform of the Roman calendar before the Second Vatican Council, all the days of the liturgical year were categorized according to four classes. The different kinds of days –

²⁹ PAUL VI, Apostolic letter *motu proprio* approving the general norms of the liturgical year and the new *Calendarium Romanum*, *Mystere paschalis*, 14 February 1969, in *AAS*, 61 (1969), pp. 222-226, English translation in *DOL*, n. 440, pp. 1152-1154. As the vernacular translations of the *Missale Romanum* and the *Liturgia Horarum* were not yet complete in many regions, the *vacatio legis* for the new calendar was extended to 1 January 1972 (SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the calendar for 1971 *In decreto*, 17 May 1970, in *Notitiae*, 6 [1970], p. 193, English translation in *DOL*, n. 443, p. 1167), and the Sacred Congregation for Divine Worship provided provisional norms to be observed in 1972 and 1973 (*idem*, Notification on the Roman Missal, Liturgy of the Hours, and the Roman Calendar *Instructio de Constitutione*, 14 June 1971, in *AAS*, 63 [1971], pp. 712-715, English translation in *DOL*, n. 216, pp. 544-546).

³⁰ PAUL VI, Address to the consistory of cardinals, 28 April 1969, in *AAS*, 61 (1969), pp. 428-429, English translation in *The Pope Speaks*, 14 (1969-1970), p. 161. For a more comprehensive examination of the changes introduced into the *Calendarium Romanum*, see P. JOUNEL, "L'organisation de l'année liturgique," in *La Maison Dieu*, 100 (1969), pp. 139-156; J. DUBOIS, "Les saints du nouveau calendrier: Tradition et critique historique," in *La Maison Dieu*, 100 (1969), pp. 157-178; A. FLANNERY, "The New Liturgical Calendar," in *Doctrine and Life*, 19 (1969), pp. 323-328; G. MCGINTY, "The Reform of the Church Calendar," in *Doctrine and Life*, 19 (1969), pp. 594-601; J. D. CRICHTON, *Christian Celebration: The Mass*, London, Geoffrey Chapman, 1971, pp. 107-114, R. K. SEASOLTZ, *New Liturgy, New Laws*, Collegeville, MN, The Liturgical Press, 1980, pp. 150-156 (=SEASOLTZ, *New Liturgy, New Laws*); BUGNINI, *The Reform of the Liturgy*, pp. 305-330.

³¹ CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Calendarium Romanum*, *Anni liturgici ordinatione*, 21 March 1969, in *Notitiae*, 5 (1969), pp. 163-164, English translation in *DOL*, n. 441, pp. 1154-1155. An instruction of the same congregation determined how particular calendars were to be adopted for the year 1970 until the *editio typica* of the liturgical books were complete (*Idem*, Instruction on the interim adaptation of particular calendars *Decreto Sacrae Congregationis Rituum*, 29 June 1969, in *Notitiae*, 5 [1969], p. 283, English translation in *DOL*, n. 480, p. 1244).

Sundays, weekdays, vigils, octaves, and feasts – were ranked according to this classification, although not all kinds of liturgical days have examples in all four classes.³² The present arrangement of the calendar marks a notable departure from this pattern and classifies all liturgical days into three categories according to their level of importance, namely, solemnities, feasts, and memorials.

Solemnities, which include all feasts which were formally designated as belonging to class I, are counted as the principal days in the calendar and their observance begins with evening prayer I of the preceding day (*CR*, n. 11). Feasts are celebrated within the limits of the natural day and, for the most part, do not have evening prayer I (*CR*, n. 13). Under the previous classification, these feasts were designated as belonging to class II. Memorials, formally designated as feasts of class III, are further distinguished as either obligatory or *ad hbitum* (*CR*, n. 14). Since many saints were no longer included in the general calendar, the Congregation for Sacred Rites issued an instruction for the preparation of particular calendars for a country, a region, a diocese, or a religious institute.³³ Particular calendars, drawn up by the competent authority, required the prior approval of the Holy See (*CR*, n. 47).

The temporal cycle, or the proper of seasons, was reformed so as to better emphasize the whole mystery of Christ, that is, “from his incarnation until the day of Pentecost and the experience of his coming again” (*CR*, n. 17). This was achieved by a clear delineation of various seasons of the annual cycle. As Paul VI noted above, no radical changes were introduced into the calendar, apart from the elimination of certain octaves,

³² For an overview of the reform of the calendar which occurred by means of John XXIII's *motu proprio Rubricarum instructum*, 25 July 1960 (see 1.5.1 above), see MCMANUS, *Handbook for the New Rubrics*, pp. 19-77.

³³ SACRED CONGREGATION FOR DIVINE WORSHIP, Instruction on the revision of particular calendars and of the propers for offices and Masses *Calendarum particularium*, 24 June 1970, in *AAS*, 62 (1970), pp. 651-663, English translation in *DOL*, n. 481, pp. 1245-1256.

Septuagesima, and the adaptation of rogation and ember days. The time previously referred to as “after the Epiphany” (*post Epiphaniam*) or “after Pentecost” (*post Pentecosten*) is distinguished as Ordinary time (*tempus per annum*), comprised of thirty-three or thirty-four weeks of the year.

The guidelines approved by the Consilium for the revision of sanctoral cycle, or the proper of saints, proved to be the most controversial, due in large part to the suppression of certain feasts. It was decided that the general calendar was to retain or include feasts of saints from various parts of the world in order to illustrate the universality of sanctity in the Church. This, of course, necessitated the removal of certain feasts and introduced a regrettable level of confusion concerning the authenticity of particular devotions. Although a “certain arbitrariness” was inevitable,³⁴ the Consilium was guided by the following principles:

- a) All the apostles and evangelists, who are the foundation of the Church, are to be kept in the universal calendar.
- b) Of the ancient martyrs, those are kept who are universally venerated or possess a universal interest for the life of the Church; a selection of others is to be made that will be representative of all classes of the clergy and the faithful
- c) The principal Doctors are to be kept in the universal calendar; the others are to be evaluated case by case
- d) Saints of general interest because of their type of spirituality or apostolate are to be kept in the general calendar³⁵

A number of saints’ feast days were also transferred to their *dies natalis* or day of death.³⁶

Since the revised calendar changed many of the Holy days previously prescribed, the

³⁴ SEASOLTZ, *New Liturgy, New Laws*, p. 154.

³⁵ See *Principia seu criteria generalia ad calendarium liturgicum instaurandum*, in *Notitiae*, 1 (1965), pp. 150-152, English translation in BUGNINI, *The Reform of the Liturgy*, p. 308.

³⁶ A complete overview of the changes introduced into the Roman Calendar, including the rationale for the inclusion or exclusion of particular saints can be found in the unofficial commentary provided by the Consilium. See *Calendarium Romanum ex decreto sacrosancti oecumenici concilii vaticani II instauratum auctoritate Pauli PP. VI Promulgatum*, 21 March 1969, Typis Polyglottis Vaticanis, 1969, pp. 112-149.

Congregation for Sacred Rites issued a decree determining on which days pastors and others were obliged to celebrate the *Missae pro populo* (cf. *CIC/17*, c. 466).³⁷

Continued use of the 1962 *Missale Romanum* and its accompanying calendar presents several difficulties. With the suppression and addition of certain feasts, as well as the transfer of retained feasts to different days, the revised calendar contains notable changes. In personal parishes where the 1962 *Missale Romanum* is exclusively used, this does not present significant obstacles. In parishes where both liturgical forms are employed, however, the utilization of distinct liturgical calendars can introduce a great deal of confusion, where a solemnity or feast of a saint may be celebrated twice in the same year, but on different days, or simply not at all. Similarly, alternate calendars can present unique challenges to priests who may be required to prepare separate homilies based upon a different cycle of scriptural readings. The importance of Sunday, emphasized so strongly by *Sacrosanctum concilium*, is not entirely compromised by the use of the earlier calendar. As McManus notes, John XXIII's reform of the calendar in 1960 ensures that, for the most part, "a liturgical day of a given class within the temporal cycle, for example, a Sunday or a weekday, has precedence over a feast of the same liturgical class which is in the sanctoral cycle"³⁸ Since the *Missale Romanum* of 1962 makes use of this calendar reform, the opportunities for outranking Sunday are significantly reduced.

2.5 – Reform of the *Missale Romanum*

Sacrosanctum concilium called explicitly for a reform of the *Ordo Missae* and a simplification of the rites so as to promote the active participation of the faithful:

³⁷ SACRED CONGREGATION FOR THE CLERGY, Decree on the obligation of celebrating the Mass *pro populo*, 25 July 1970, in *AAS*, 63 (1971), pp. 943-944, English translation in *DOL*, n. 283, p. 703

³⁸ MCMANUS, *Handbook for the New Rubrics*, p. 33. A *tabella dierum liturgicorum* is included in the rubrical code approved by John XXIII (*AAS*, 52 [1960], pp. 610-612, n. 91). See also *ibid.*, pp. 36-37.

The Order of the Mass is to be revised in a way that will bring out more clearly the intrinsic nature and purpose of its several parts, as also the connection between them, and will more readily achieve the devout, active participation of the faithful

For this purpose the rites are to be simplified, due care being taken to preserve their substance; elements that, with the passage of time, came to be duplicated or were added with but little advantage are now to be discarded; other elements that have suffered injury through the accident of history are now, as may seem useful or necessary, to be restored to the vigour they had in the tradition of the Fathers (*SC*, n. 50).

This rather broad provision resulted in noteworthy, incremental developments.

The reform of the *Missale Romanum* can be divided into two distinct phases. The first consists of provisional reforms introduced between the years 1965 and 1969, largely in response to the instructions *Inter oecumenici* and *Tres abhinc annos*, respectively. The second phase consists of the preparation of the 1969 *Missale Romanum* and the subsequent reforms. In 1965, during the first phase of reform, the Congregation for Sacred Rites and the Consilium promulgated three changes which directly affected the 1962 *editio typica* of the *Missale Romanum*. Firstly, a new *Ordo Missae, Ritus servandus in celebratione Missae*, and *De defectibus in celebratione Missae occurrentibus* was promulgated.³⁹ These texts were modified so as to be in agreement with the provisions of the *motu proprio Sacram Liturgiam* and the instruction *Inter oecumenici*. The remainder of the 1962 *editio typica*, such as the texts for the temporal and sanctoral cycles, remained unaffected.⁴⁰ These changes, presented as an *editio typica*, were published on 27 January 1965 and were to be incorporated into any new edition of the *Missale Romanum*. Secondly, a new Order of Holy Week was promulgated.⁴¹ The promulgated

³⁹ CONGREGATION FOR SACRED RITES, Decree promulgating the new *Ordo Missae* and the *Ritus servandus in celebratione Missae*, *Nuper edita Instructione*, 27 January 1965, in *AAS*, 57 (1965), pp. 408-409, English translation in *DOL*, n. 196, p. 449, *Ordo Missae, Ritus servandus in celebratione Missae et De defectibus in celebratione Missae occurrentibus*, 27 January 1965, Typis Polyglottis Vaticanis, 1965. An English translation of these texts can be found in *Rubrics for Celebrating Mass*, Collegeville, MN, Liturgical Press, 1965. See also *National Bulletin on Liturgy*, 1 (1965-1966), pp. 83-119.

⁴⁰ A summary of the principal changes introduced into the *Ordo Missae* and *Ritus servandus* can be found in *National Bulletin on Liturgy*, 1 (1965-1966), pp. 120-124.

⁴¹ CONGREGATION FOR SACRED RITES, Decree promulgating the text of changes in the Order of Holy Week *Quamplures Episcopi*, 7 March 1965, in *AAS*, 57 (1965), pp. 412-413, English translation in *DOL*, n. 454, p. 1186; *Variationes in ordinem hebdomadae sanctae inducendae*, 7 March 1965, Typis Polyglottis Vaticanis, 1965.

changes consisted mainly in the introduction of concelebration at the Chrism Mass, a simplification of the rite for the blessing of the oils, and a change to the general intercessions of the Good Friday liturgy so as to be more in accordance with the mind and decrees of the Second Vatican Council. Thirdly, a new *editio typica* of the rites of concelebration and of communion under both species was promulgated. *Sacrosanctum concilium* called for a new rite for concelebration to be drawn up and inserted into the *Pontificale Romanum* and *Missale Romanum* (SC, n. 58) and permitted the extension of communion under both species to the laity at the discretion of the bishops (SC, n. 55). These two rites were duly approved and published for universal observance beginning on 15 April 1965 and were also to be incorporated into the existing *Pontificale Romanum* and *Missale Romanum*.⁴²

In 1967, further minor modifications to the *Ordo Missae* occurred in response to the provisions of *Tres abhinc annos*.⁴³ Most of these particular modifications are noted above (see 2.2). In both instances, following the reforms of 1965 and 1967, the Holy See did not promulgate a new *editio typica* of the *Missale Romanum*. They merely promulgated changes which were to be incorporated into the existing missal. Consequently, it is not accurate to speak of the 1965 or 1967 *Missale Romanum*. Nevertheless, all of these changes derogated from the law which required exclusive use of the 1962 *editio typica*. No longer could the 1962 *editio typica* be used without observing the changes lawfully introduced during this initial post-conciliar period. In fact, it was not until 1984 that provisions were made for use of the 1962

⁴² *Idem*, Decree promulgating the *editio typica* of the rites of concelebration and of communion under both kinds *Ecclesiae semper*, 7 March 1965, in *AAS*, 57 (1965), pp. 410-412, English translation in *DOL*, n. 222, pp. 554-556; *Ritus servandus in concelebratione Missae et ritus communionis sub utraque specie*, 7 March 1965, Typis Polyglottis Vaticanis, 1965.

⁴³ *Idem*, Decree promulgating the text on changes in the *Ordo Missae*, *Per Instructionem alteram*, 18 May 1967, in *Notitiae*, 3 (1967), p. 195, English translation in *DOL*, n. 201, p. 456, *Variationes in Ordinem Missae inducendae ad normam Instructionis S.R.C., die 4 Maii 1967*, 18 May 1967, Typis Polyglottis Vaticanis, 1967. An English translation of these *variationes* can be found in *National Bulletin on Liturgy*, 2 (1966-1968), pp. 173-183.

editio typica without observing the changes lawfully introduced in both 1965 and 1967 (see 3.3 below).

The second phase of the reform of the *Missale Romanum* began in 1969 when a revised *Missale Romanum* was given anticipatory approval by Paul VI.⁴⁴ Since the entire *Missale Romanum* was not yet complete, a shorter volume was published containing the *Institutio generalis Missalis Romani*, the *Ordo Missae*, various prefaces, and four Eucharistic prayers.⁴⁵ The effective date for this new volume was 30 November 1969, the first Sunday of Advent. With the promulgation of the *Institutio generalis*, the *Rubricae generales*, the *Ritus servandus in celebratione et concelebratione Missae*, and the *De defectibus in celebratione Missae occurrentibus*, all preliminaries of the 1962 *editio typica*, were explicitly abrogated.⁴⁶

Since its initial promulgation, the *General Instruction of the Roman Missal* has undergone a number of revisions.⁴⁷ The first version was issued along with the revised *Ordo Missae* in 1969, as noted immediately above. A second emended version was promulgated with the completed *Missale Romanum* in 1970.⁴⁸ This edition contained a new lengthy introduction to

⁴⁴ PAUL VI, Apostolic Constitution on the Roman Missal *Missale Romanum*, 3 April 1969, in *AAS*, 61 (1969), pp. 217-222, English translation in *DOL*, n. 202, pp. 458-461

⁴⁵ The new Eucharistic prayers and prefaces had already been promulgated in 1968 (CONGREGATION FOR SACRED RITES, Decree promulgating three new Eucharistic prayers and eight prefaces *Prece eucharistica*, 23 May 1968, in *Notitiae*, 4 [1968], p. 156, English translation in *DOL*, n. 241, pp. 608-609).

⁴⁶ *Idem*, Decree promulgating the *editio typica* of the *Ordo Missae* and General Instruction of the Roman Missal *Ordine Missae*, 6 April 1969, in *Notitiae*, 5 (1969), p. 147, English translation in *DOL*, n. 203, p. 461.

⁴⁷ Not every revision resulted in the promulgation of a new official edition. Huels examines the various emendations introduced into the *GIRM* and concludes. "In my opinion, it would be preferable to say that there have been three official editions of the *IGRM*, corresponding to the three editions of the *Missale Romanum* (1970, 1975, 2002). The other texts and variations may be seen either as preliminary versions (those of 1969 and 2000) or relatively minor updates of existing versions (those of 1972 and 1983). In this approach, the *IGRM* is viewed not as a document wholly distinct from the Missal but as an integral part of it" (J.M. HUELS, "A Commentary on the General Instruction of the Roman Missal," in *Worship*, 82 [2008], p. 436).

⁴⁸ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the first *editio typica* of the *Missale Romanum*, 26 March 1970, in *AAS*, 62 (1970), p. 554, English translation in *DOL*, n. 213, p. 543. Besides a new introduction, a number of changes were also made to the text itself. These can be found in "Variationes in *Institutionem generalem Missalis Romani* inductae," in *Notitiae*, 6 (1970), pp. 177-190.

address a variety of “doctrinal and rubrical” criticism, particularly attacking the orthodoxy and legitimacy of the reform. As Bugnini notes, the new introduction attempted to address three points: (1) the history of the Roman Missal, especially from Trent to Vatican II; (2) the theological fidelity and ritual continuity of both Missals to the teaching of the Church; and (3) the norms followed in the reform of the *Missale Romanum*.⁴⁹ With the revision of minor orders and the suppression of the subdiaconate,⁵⁰ further revisions were introduced, so as to remove all references to the subdiaconate and identify the new duties of the acolyte.⁵¹ Three years later, a new edition was issued to accompany the *editio typica altera* of the *Missale Romanum* in 1975.⁵² The promulgation of the 1983 Code of Canon Law required a number of revisions to be made to the *praenotanda* of the liturgical books. Thirteen such emendations were made to the *General Instruction of the Roman Missal*, although no new edition was promulgated.⁵³ The most recent edition of the *Institutio generalis* was promulgated with the *editio typica tertia* in 2000 and remains the *ius vigen*s.⁵⁴

⁴⁹ BUGNINI, *Reform of the Liturgy*, p. 394. Bugnini also notes that the Congregation for Divine Worship wanted the pope to issue a *motu proprio* to address the initial attacks on the revised *Missale Romanum* and its accompanying *Institutio generalis*. It was Paul VI’s “keen intuition” to prepare an introduction for the GIRM rather than issue a separate *motu proprio* (ibid., p. 395).

⁵⁰ *Ministeria quaedam* states: “Among the special offices which are to be retained and adapted to present-day needs there are some which are especially connected with the ministries of the Word and of the altar. In the Latin Church they are the office of lector, the office of acolyte and the subdiaconate. These offices now will be reduced to two, that of lector and that of acolyte, and the functions of the subdiaconate will be divided between them” (PAUL VI, Apostolic letter *motu proprio* on first tonsure, minor orders and the subdiaconate *Ministeria quaedam*, 15 August 1972, in *AAS*, 64 [1972], pp. 529-534, English translation in Flannery 1, p. 428). The implications of this document for celebrations of Mass according to the extraordinary form will be explored in chapter IV.

⁵¹ For the variations introduced into this edition, see “Variationes in institutionem generalem Missalis Romani inducendae,” in *Notitiae*, 9 (1973), pp. 34-38.

⁵² SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica altera* of the *Missale Romanum*, *Cum Missale Romanum*, 27 March 1975, in *Notitiae*, 11 (1975), p. 295.

⁵³ These can be found in *Notitiae*, 19 (1983), pp. 541-543.

⁵⁴ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Decree promulgating the *editio typica tertia* of the *Missale Romanum*, 20 April 2000, in *Notitiae*, 38 (2002), pp. 452-453. When this edition of the *Missale Romanum* was actually published in 2002, the accompanying *GIRM* contained

An *institutio generalis*, although commonly translated as “general instruction,” should not be confused with an instruction (*instructio*), a document containing general administrative norms binding the executors of the law (*CIC/83*, c. 34). General instructions are proper legislative documents. All general administrative norms, as acts of executive power, remain subordinate to legislation, both universal and particular.⁵⁵ The continued use of the 1962 *Missale Romanum* raises several important issues, such as the applicability of *Sacrosanctum concilium*, the appropriate use of the vernacular, the facilitation of the active participation of the faithful, and, perhaps most contentiously of all, the juridical status of abrogated liturgical discipline. These issues, among others, will be treated in chapters IV and V

2.6 – Reform of the *Ordo Lectionum Missae*

Sacrosanctum concilium instructed that “in sacred celebrations there is to be more reading from holy Scripture and it is to be more varied and apposite” (*SC*, n. 35). This general norm is then applied to the Eucharistic celebration.

The treasures of the Bible are to be opened up more lavishly, so that a richer share in God’s word may be provided for the faithful. In this way a more representative portion of holy Scripture will be read to the people in the course of a prescribed number of years” (*SC*, n. 51)

The rediscovery of the importance of sacred scripture in the liturgy and the desire for a reformed cycle of readings were largely the result of three confluent forces evident throughout the twentieth century, namely, biblical studies, the liturgical movement, and the catechetical movement.⁵⁶ Each contributed to an awareness of the limitations of the 1962

notable corrections and amendments. See D. C. SMOLARSKI, *The General Instruction of the Roman Missal 1969-2002: A Commentary*, Collegeville, MN, Liturgical Press, 2003, p. 27.

⁵⁵ See HUELS, *Liturgy and Law*, p. 90. See also R. K. SEASOLTZ, “Liturgy and Ecclesiastical Law,” in E. FOLEY, N. D. MITCHELL and J. M. PIERCE (eds.), *A Commentary on the General Instruction of the Roman Missal*, Collegeville, MN, Liturgical Press, 2007, pp. 42-43.

⁵⁶ See N. BONNEAU, *The Sunday Lectionary: Ritual Word, Paschal Shape*, Collegeville, MN, Liturgical Press, 1998, pp. 21-22 (=BONNEAU, *The Sunday Lectionary*).

Missale Romanum, specifically the limited number of biblical passages it contained and the language and manner of its proclamation.

To appreciate the changes introduced in accordance with the provisions of *Sacrosanctum concilium*, it is helpful to recall the salient features of the cycle of readings contained in the 1962 *Missale Romanum*: (1) it was organized on a one-year cycle, containing a total of 138 different biblical passages; (2) with the exception of the Easter Vigil, each Sunday and feast day had two readings. The first reading was a selection from the New Testament letters; the second reading was an excerpt from one of the four gospels; (3) the Old Testament was read on only three occasions: the feast of the Epiphany, Good Friday, and at the Easter vigil; (4) excerpts from Matthew and Luke were assigned to twenty-two and twenty-one Sundays and feast days respectively. Passages from Mark's gospel were chosen on only four occasions, while John's gospel was read primarily in the Easter season; (5) there were only three excerpts from the Acts of the Apostles, and nothing from Second Thessalonians and the Book of Revelation.⁵⁷ Consequently, only one percent of the Old Testament verses, not including the psalms, and seventeen percent of the New Testament verses were read over the course of one year, compared to fourteen percent of the Old Testament and seventy-one percent of the New Testament following the new cycle of readings.⁵⁸

On 25 May 1969, the new *editio typica* of the cycle of readings was promulgated for use beginning 30 November 1969, the First Sunday of Advent.⁵⁹ Conferences of bishops

⁵⁷ N. BONNEAU, *The Sunday Lectionary*, pp. 18-19. A helpful chart outlining the epistle and gospel readings for each Sunday in the *Missale Romanum* before Vatican II can be found in *ibid.*, pp. 15-17.

⁵⁸ See THE BISHOPS' COMMITTEE ON THE LITURGY, "Twenty Questions on the Apostolic Letter *Summorum Pontificum*," in *BCL Newsletter*, 43 (2007), p. 27.

⁵⁹ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica* of the order of readings for Mass *Ordo lectionum*, 25 May 1969, in *AAS*, 61 (1969), pp. 548-549, English translation in *DOL*,

were charged with preparing vernacular translations of the lectionary, based either on approved existing translations or newly prepared translations with the approval of the Sacred Congregation for Divine Worship. The *vacatio legis* was subsequently extended until such translations were prepared and approved for liturgical use.⁶⁰ The new *Ordo Lectionum Missae* contains (1) the *praenotanda*, a rather lengthy introduction concerning the general arrangement of the lectionary, the principles behind the choice of readings, the organization of each section of the year, and practical regulations for translation into the vernaculars; (2) the lectionary proper, subdivided into six parts: proper of seasons (*proprium de tempore*), proper of the saints (*proprium de sanctis*), observing the new calendar; commons (*communio*); ritual Masses (*Missae rituales*); Masses for various occasions (*Missae ad diversa*); and votive Masses (*Missae votivae*); and, finally, (3) an index of all the scriptural passages of the Bible that have been used or cited.⁶¹

For Sundays and solemnities, the lectionary provides three readings: the first from the Old Testament, the second from an apostle (either from a letter or the book of Revelation), and the third from the gospels (*OLM*, n. 66, §1). The lectionary makes a distinction between the festal seasons (Advent, Christmas, Lent, and Easter) and Ordinary Time. During the festal seasons, the lectionary employs the principle of *lectio selecta*, that is, readings are selected

n. 231, p. 573; *Ordo Lectionum Missae*, editio typica, Typis Polyglottis Vaticanis, 1969. This volume contains only the list of pericopes, not the biblical texts themselves. This was published later in 1970 as *Lectionarium*, 30 September 1970, 3 vols., Libreria editrice Vaticana, 1970-1972. For a commentary on the new *Ordo lectionum Missae*, see G. FONTAINE, "Commentarium ad ordinem lectionem Missae," in *Notitiae*, 5 (1969), pp. 256-282; C. WIENER, "Présentation du nouvelle lectionnaire," in *La Maison-Dieu*, 99 (1969), pp. 29-49.

⁶⁰ SACRED CONGREGATION FOR DIVINE WORSHIP, Instruction on editions and use of the new Lectionary for Mass *Decreto quo*, 25 July 1969, in *Notitiae*, 5 (1969), pp. 238-239, English translation in *DOL*, n. 233, p. 586-587.

⁶¹ A new edition of the lectionary was promulgated in 1981 (*Ordo Lectionum Missae*, editio typica altera, 21 January 1981, Libreria editrice Vaticana, 1981). This included expanded *praenotanda*, the addition of sacramental rites promulgated since 1969, and new Masses included in the 1975 *editio typica altera* of the *Missale Romanum*. See "De editio typica altera Ordinis lectionum Missae," in *Notitiae*, 17 (1981), pp. 357-409. See also "Variazioni della editio typica altera," in *Notitiae*, 11 (1981), pp. 410-462.

to best express the nature of the season or celebration. The Sundays in Ordinary Time, conversely, are arranged on the basis of semi-continuous readings. The adoption of *lectio continua* applies to the second reading and gospel, each following its own independent sequence (*OLM*, n. 67). Only rarely is there correspondence between these two readings – despite the best intentions of homilists to identify “themes” for each Sunday. The first reading from the Old Testament, however, has been selected to harmonize with the gospel passage (*OLM*, n. 67). The lectionary for Sundays and solemnities adopts a three-year cycle; the same readings are read only every fourth year (*OLM*, n. 66).⁶²

The weekday cycle of readings, which does not exist in the 1962 *Missale Romanum*, is arranged in the following manner:

1. Each Mass has two readings: the first from the Old Testament or from an apostle (from a letter or Revelation), and during the Easter season from Acts; the second from the gospels.
2. The yearly cycle for Lent has its proper principles of arrangements, which take into account the baptismal and penitential themes of this season.
3. The cycle for the weekdays in Advent, the Christmas season, and the Easter season is also yearly and the readings remain the same each year.
4. For the thirty-four weeks of Ordinary Time, the gospel readings are arranged in a single cycle, repeated each year. But the first reading is arranged in a two year cycle and is thus read every other year. Year I is used during odd numbered years, Year II during even-numbered years.⁶³

The adoption of a weekday lectionary, arranged on a two year cycle, and an expanded Sunday lectionary, arranged on a three-year cycle, enables a greater portion of the “treasures of the Bible” – which is indeed “more varied and apposite” – to be proclaimed over the course of a year, and even more so over the course of three years. This is a faithful

⁶² For more information concerning the principles of reading selection and distribution, see N. BONNEAU, *The Sunday Lectionary*, pp. 45-47. See also A. NOCENT, “I criteri di scelta delle letture nell’Ordo per le domeniche e per le feste,” in *Rivista di pastorale liturgica*, 7 (1969), pp. 555-564.

⁶³ *Ordo Lectionum Missae*, editio typica altera, 21 January 1981, Libreria editrice Vaticana, 1981, p. xxxiii, n. 69. English translation taken from *Lectionary: Sundays and Solemnities, Study Edition*, Ottawa, Canadian Conference of Catholic Bishops, 1992, p. xxiii, n. 69.

application of *Sacrosanctum concilium* and more than triples the number of biblical passages contained in the 1962 *Missale Romanum*⁶⁴

The *praenotanda* of the 1981 *Ordo Lctionum Missae* recognize the “pastoral advantage” of adopting a single order of readings in the Roman Rite so that “all the faithful, particularly those who for various reasons do not always take part in Mass with the same assembly, will everywhere be able to hear the same readings on any given day or in any liturgical season and to reflect on the application of these readings to their own circumstances” (*OLM*, n. 62) Even at Sunday celebrations in the absence of a priest, the prayer texts and readings are to be taken from the Roman Missal and Lectionary to ensure that “the faithful will follow the cycle of the liturgical year and will pray and listen to the word of God in communion with the other communities of the church.”⁶⁵ No longer is the observance of a single cycle of readings possible in actual practice. *Summorum Pontificum* permits use of the 1962 *editio typica* of the *Missale Romanum* and, by extension, the cycle of readings contained therein.

2.7 – Reform of the *Rituale Romanum*

Following the promulgation of the 1917 Code of Canon Law, a new *editio typica* of the *Rituale Romanum* was promulgated so as to ensure that the norms contained therein conformed to the provisions of the new code, the rubrics of the *Missale Romanum*, and the most recent decrees of the Holy See (see 1.3.3 above). The *praenotanda* contained in the 1952 *Rituale Romanum* do not correspond to the present *ius vigens* – the 1983 Code of Canon Law – but to the 1917 Code of Canon Law. Although the 1917 Code has been expressly abrogated by the promulgation of the 1983 Code of Canon Law (c. 6, §1, 1°), some may argue that

⁶⁴ For detailed statistics, see N BONNEAU, *The Sunday Lectionary*, pp 48-49

⁶⁵ CONGREGATION FOR DIVINE WORSHIP, Directory for Sunday Celebrations in the Absence of a Priest, 2 June 1988, n 36, in *Notitiae*, 24 (1988), p 374, English translation in *CLD*, 12, p 738

permission to use the earlier *Rituale Romanum*, in accordance with *Summorum Pontificum*, also necessitates the observance of the *praenotanda* contained in the earlier *Rituale Romanum*.⁶⁶ This is not a satisfactory interpretation in light of *CIC/83*, cc. 2, 20, and *RJ 15 in VP*, which states that “burdens are to be restricted, and favours are to be amplified (*Odia restringi, et favores convenit ampliari*). In some instances, the norms are merely exhortative and do not present significant difficulties. In other cases, however, there are notable differences, and the norms contained in the earlier *Rituale Romanum* are more restrictive than the present. Consequently, when provisions contained in the earlier *Rituale Romanum* cannot be reconciled with the present law, the latter prevails. This will be identified more clearly below.

2.7.1 – Sacrament of Baptism

Sacrosanctum concilium devoted several articles to the sacrament of baptism, the gateway and foundation to all other sacraments (cf. *CIC/17*, c. 737, §1; *CIC/83*, c. 849). It called for the restoration of the adult catechumenate (*SC*, nn. 64-65), a revision of the various rites of baptism (*SC*, nn. 66-69), and provision for blessing the baptismal water within the rite of baptism itself (*SC*, n. 70). The earlier *Rituale Romanum* provided (1) an order for the baptism of children, largely an abbreviated form of the rite for baptism of adults; and (2) an order for the baptism of adults which, until the partial revision in 1962 noted above, was a conflation of distinct stages of the catechumenate into a single celebration. For a grave

⁶⁶ This argument was made by A. Reid in the introduction to A. FORTESCUE, J. B. O’CONNELL, and A. REID (eds.), *Ceremonies of the Roman Rite Described*, 15th ed., London, Burns & Oates, 2009, pp. 18-19. Liturgical books contain two types of liturgical law: (1) the rubrics, namely, the specific directives guiding ministers in the celebration of the liturgy. They are generally printed in red to distinguish them from the readings and prayers; (2) the *praenotanda*, which generally comprise the introduction of a liturgical rite or chapter, and consist of various norms to be observed in the celebration of the liturgy (See HUELS, *Liturgy and Law*, p. 85). Use of the earlier *Rituale Romanum* implicitly includes use of the corresponding rubrics. Rubrics, strictly speaking, properly define the manner in which the liturgical rites are to be celebrated; without them it would be impossible to celebrate the sacraments according to their “extraordinary form.” Numerous disciplinary liturgical laws have been promulgated since 1962. These are contained in the 1983 Code of Canon Law, the *praenotanda* of the liturgical rites, and various other juridic documents issued by the competent ecclesiastical authority. While *Summorum Pontificum* permits the observance of rubrics, this concession does not extend to the observance of abrogated liturgical discipline, some of which is contained in the *praenotanda* of the earlier *Rituale Romanum*.

and reasonable cause, the rite for the baptism of a child could be utilized for the baptism of an adults (*CIC/17*, c. 755, §2).⁶⁷ In light of *Sacrosanctum concilium* and its request for the restoration of the adult catechumenate and revision of the various rites of baptism, two distinct rites were promulgated: the rite of baptism for children,⁶⁸ and the rite of Christian initiation of adults.⁶⁹ Despite being promulgated separately, both rites share a common general introduction on Christian initiation in addition to individual introductions which respectively preface each rite.

2.7.1.1 – The Rite of Baptism for Children

Sacrosanctum concilium called for the revision of the rite for the baptism of children, specifying that “it should be suited to the fact that those to be baptized are infants.” Furthermore, “the roles as well as the obligations of parents and godparents should be brought out more clearly in the rite itself” (*SC*, n. 67). In the earlier rite, questions were addressed directly to the children as if they were capable of responding. Similarly, the sponsors occupied an important function in the celebration of baptism, clearly to the detriment of the parents who, as the revised rite asserts, accept the primary obligations of educating the child in the faith. Parents, therefore, are to be assisted in their task as primary

⁶⁷ This provision was routinely employed due to the lengthy nature of the order for the baptism of adults. See F.R. McMANUS, “Title I: Baptism,” in *CLSA Comm1*, p. 618.

⁶⁸ SACRED CONGREGATION OF DIVINE WORSHIP, Decree promulgating the *editio typica* of the rite of baptism for children *Ordinem Baptismi parvulorum*, 15 May 1969, in *AAS*, 61 (1969), p. 548, English translation in *DOL*, n. 292, pp. 718-719; *Ordo Baptismi parvulorum*, 15 May 1969, Typis Polyglottis Vaticanis, 1969. A second emended edition was subsequently published in 1973 (*Ordo Baptismi parvulorum*, *editio typica altera*, 29 August 1973, Typis Polyglottis Vaticanis, 1973). A description of the *variationes et emendationes* can be found in *Notitiae*, 9 (1973), pp. 268-272.

⁶⁹ *Idem*, Decree promulgating the new rite of Christian initiation of adults *Ordinis Baptismi adultorum*, 6 January 1972, in *AAS*, 64 (1972), p. 252, English translation in *DOL*, n. 300, pp. 735-736; *Ordo initiationis Christianae adultorum*, 6 January 1972, Typis Polyglottis Vaticanis, 1972. For a commentary on the new rite, see J.-B. MOLIN, “Le nouveau rituel de l’initiation chrétienne des adultes,” in *Notitiae*, 8 (1972), pp. 87-95.

educators of their children, and are to be suitably prepared for the celebration of the sacrament (*OBP*, n. 5; *CIC/83*, c. 851, 2^o).⁷⁰

The revised rite of baptism provides for various pastoral scenarios, including the rite of baptism for several children (chapter I), the rite of baptism for one child (chapter II), the rite of baptism for a large number of children (chapter III), the rite of baptism for children administered by a catechist when no priest or deacon is available (chapter IV), the rite of baptism for children in danger of death when no priest or deacon is available (chapter V), the rite of bringing a baptized child to the Church (chapter VI), and various texts for use in the celebration of baptism for children (chapter VII).⁷¹ Although adapted for various circumstances, each form of infant baptism, except in danger of death, is comprised of four distinct parts: (1) the reception of the children, (2) the Liturgy of the Word, (3) the celebration of the sacrament, and (4) the concluding rites. The variety expressed in the revised *Ordo baptismi parvulorum* is a faithful response to *Sacrosanctum concilium*, n. 68, which indicated that the baptismal rite should contain alternatives for occasions when large numbers are baptized together or for those in danger of death when ordinary ministers of baptism are unavailable.

⁷⁰ The role of parents is emphasized in the revised rite of baptism when “(a) they publicly ask that the child be baptized; (b) they sign their child with the sign of the cross after the celebrant; (c) they renounce Satan and recite the profession of faith; (d) they (and especially the mother) carry the child to the font; (e) they hold the lighted candle; (f) they are blessed with prayers formulated specifically for mothers and fathers” (*OBP*, n. 3).

⁷¹ The first and second chapters are similar, containing only minor rubrical changes in which the singular is substituted for the plural in the latter. The rite of baptism for a large number of children omits the anointing before baptism and, if there are not enough ministers, the conference of bishops can decide to omit the post-baptismal anointing with chrism. If the anointing is omitted, an adapted formula is used in its place (*OBP*, n. 125) The rite for use by a catechist is the same as for a large number of children, but with the omission of everything that a layperson cannot do, such as the exorcisms, the anointings, and the blessing of the water. The rite for use in danger of death, and in the absence of an ordinary minister of the sacrament, is very simple, comprised of general intercessions, a prayer for the child, the profession of faith, the baptism, and the Lord’s Prayer. The rite of bringing a baptized child to church was to replace the *Ordo supplendi omnia super infantem baptizatum*, contained in the earlier *Rituale Romanum*, and to “manifest more clearly and fittingly that an infant who was baptized by the short rite has already been received into the Church” (*SC*, n. 69). See BUGNINI, *The Reform of the Liturgy*, pp. 609-612.

Apart from where the *praenotanda* of the earlier *Rituale Romanum* describes the manner in which the rite is to be celebrated, the provisions of the 1983 Code of Canon Law are to be observed, especially concerning the celebration of baptism (*CIC/83*, cc. 850-860), the minister of baptism (cc. 861-863), the subject of baptism (cc. 864-871), sponsors for baptism (cc. 872-874), and the proof and registration of the conferral of baptism (cc. 875-878). In some cases, there are notable changes in the law. A brief survey can sufficiently identify some of the principal changes concerning the administration of baptism. Deacons, who were considered extraordinary ministers of baptism in the earlier *Rituale Romanum*⁷² and the 1917 Code of Canon Law (c. 741), are now numbered among the ordinary ministers of baptism (*CIC/83*, c. 865). Before the restoration of the permanent diaconate, which first assigned deacons the function of administering baptism solemnly as ordinary ministers, deacons needed a justifying reason to baptize solemnly as well as the permission of the local ordinary or pastor (*CIC/17*, c. 741).⁷³ Administration of baptism remains a function especially entrusted to pastors (*CIC/83*, c. 530, 1°).

The choice of sponsors can often present several pastoral difficulties, especially concerning the designation of non-Catholic Christians. The 1917 Code and the earlier *Rituale Romanum* prohibited the use of sponsors belonging to “heretical or schismatic sects.”⁷⁴ The 1983 Code of Canon Law permits a baptized person who belongs to a non-Catholic ecclesial community to participate as a witness together with a Catholic sponsor. Furthermore, “because of the close communion between the Catholic Church and the Eastern Orthodox

⁷² *Rituale Romanum*, II, 1, 15

⁷³ Solemn baptism referred to baptism administered according to all the rites and ceremonies prescribed in the ritual books. When it was not administered solemnly, it was called private (*CIC/17*, c. 737, §2). This distinction is no longer relevant due to the variety of forms contained in the *Ordo Baptismi parvulorum*, providing for situations which were once considered “private,” such as when no priest or deacon is available or in cases of danger of death. See BUGNINI, *The Reform of the Liturgy*, p. 600, footnote 4.

⁷⁴ *Rituale Romanum*, II, 1, 34, 2°, *CIC/17*, c. 765, 2°

Churches, it is permissible for a just cause for an Eastern faithful to act as godparent together with a Catholic godparent at the baptism of a Catholic infant or adult, so long as there is provision for the Catholic education of the person being baptized, and it is clear that the godparent is a suitable one.”⁷⁵ These provisions, informed by contemporary ecumenical awareness, are to be observed even when celebrating baptism according to the earlier *Rituale Romanum*.

From baptism, a spiritual relationship was contracted between the one baptizing, the one being baptized, and the sponsor (*CIC/17*, c. 768). This relationship constituted a diriment impediment to marriage (*CIC/17*, c. 1079). As this impediment has been abrogated with the 1983 Code of Canon Law, reference to this is to be omitted in the earlier *Rituale Romanum*.⁷⁶ A number of antiquated, if not offensive, references are also to be omitted, including the admonition to parents who, under no circumstances, are to confide their child for nursing to a Jewish woman, an infidel, or a heretic, the preference of men over women to baptize in cases of emergency, and the instruction to baptize *monstra et ostenta* with the express condition “*si tu es homo*.”⁷⁷

2.7.1.2 – Christian Initiation of Adults

Sacrosanctum concilium, n. 64, indicated that “the catechumenate for adults, divided into several stages, is to be restored and put into use at the discretion of the local ordinary.

⁷⁵ PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY, *Directoire pour l'application des principes et des normes sur l'œcuménisme*, 25 March 1994, n. 98, in *AAS*, 85 (1993), p. 1080, Vatican English version *Directory for the Application of Principles and Norms on Ecumenism*, Ottawa, Canadian Conference of Catholic Bishops, 1993, p. 59. Note also that the General Introduction appended to both the *Ordo Baptismi parvulorum* and the *Ordo initiationis Christianae adultorum* was emended to conform to the 1983 Code of Canon Law. See SACRED CONGREGATION FOR SACRAMENTS AND DIVINE WORSHIP, *Variationes in novas editiones librorum liturgicorum ad normam Codicis Iuris Canonici nuper promulgatae introducendae*, 12 September 1983, in *Notitiae*, 19 (1983), pp. 545-546, English translation in *Emendations in the Liturgical Books following upon the New Code of Canon Law*, Washington, International Commission on English in the Liturgy, 1984, pp. 12-13.

⁷⁶ *Rituale Romanum*, II, II, 31

⁷⁷ *Rituale Romanum*, II, II, 33; II, I, 16; II, I, 22.

By this means the time of the catechumenate, which is intended as a period of well-suited instruction, may be sanctified by sacred rites to be celebrated at successive intervals of time.” An attempt to restore the adult catechumenate had already occurred by means of a revised *Ordo Baptismi adultorum*, promulgated on 16 April 1962 (see 1.5.3 above). Bugnini notes that “the 1962 *Ordo* deserves credit for calling attention to the liturgical importance of the catechumenate, but in practice all it did was divide into sections the rite currently found in the Roman Ritual.”⁷⁸ Consequently, the revised rite has undergone a substantial revision, modeled on the ancient practice of the Church but adapted to contemporary missionary work throughout the world (*OICA*, n. 2). The *Ordo initiationis Christianae adultorum* first provides the complete or usual form of initiation, intended for the preparation of a large number of people (chapter I). The gradual initiation process includes four basic stages. (1) the period of evangelization and the precatechumenate (nn. 36-40), (2) the period of the catechumenate (nn. 75-80), (3) the period of purification and enlightenment (nn. 138-140), and (4) the period of post-baptismal catechesis of mystagogy (nn. 244-251). These phases are accompanied by liturgical rites and contain three fundamental steps: entry into the catechumenate, election, and the sacrament of baptism, confirmation, and Eucharist. By making simple adaptations, pastors may adapt this form for the preparation of one person.

The *Ordo* then provides for particular circumstances, including an *ordo simplicior*, that is, a simple rite to use when it is not possible or necessary to have catechumens pass through all the normal stages and rites of Christian initiation (chapter II) In the case of danger of death, a short rite is provided which is intended for use by laypersons (chapter III). A rite is provided for the preparation of uncatechized adults for the sacraments of confirmation and Eucharist. This rite is for those who were baptized as infants but have not received a

⁷⁸ BUGNINI, *The Reform of the Liturgy*, p. 585, footnote 5

complete Christian initiation. As such, their situation resembles that of catechumens (chapter IV). A rite of Christian initiation for children who have reached catechetical age is also provided, suitably adapted to the age of the candidates and to the participation of parents (chapter V). The final chapter includes various optional texts and readings from scripture (chapter VI). An appendix to the *Ordo initiationis* contains a rite of reception of baptized Christians into full communion with the Catholic Church. This rite was included in response to *Sacrosanctum concilium*, which explicitly called for the formulation of a new rite for “converts” that “should express that they are being received into the communion of the Church” (*SC*, n. 69).

Where *Summorum Pontificum* speaks of use of the “earlier ritual” for the administration of the sacrament of baptism (art. 9, §1), the *Ordo Baptismi adultorum*, promulgated by the Congregation for Sacred Rites on 16 April 1962, should be used in place of the rite contained in the earlier *Rituale Romanum* (see 1.5.3 above). Not only was this rite to be inserted into the *Rituale Romanum* in place of the rite of baptism for adults, but it also respects the desire of the Council Fathers that the catechumenate be restored and that the initiation of adults occur in degrees or stages that are sanctified by sacred rites to be celebrated at successive intervals of time (*SC*, n. 64).⁷⁹ This solution is not entirely satisfactory, however, since the *Ordo Baptismi adultorum* makes no provision for the administration of confirmation. Unless there is a grave reason to the contrary, an adult who is baptized is to be confirmed immediately after baptism (*CIC/83*, c. 866). In such cases,

⁷⁹ Use of this revised rite also avoids the offensive admonitions which were added if the candidate was converting from “paganism” (*Horresce idola, respue simulacra*), Judaism (*Horresce Judaicam perfidiam, respue Hebraicam superstitionem*), Islam (*Horresce Mahumeticam perfidiam, respue pravam sectam infidelitatis*), or Protestantism (*Horresce haereticam pravitatem, respue nefarias sectas impiorum N*), employed in the *Ordo Baptismi adultorum* (*Rituale Romanum*, II, iv, 10) and the *Supplenda super adultorum Baptizatum* (*Rituale Romanum*, II, vi, 7). By means of a decree, these formulas were to be deleted (CONGREGATION FOR SACRED RITES, Decree deleting certain formulas from the ritual of baptism for adults, 27 November 1959, in *Ephemerides liturgicae*, 74 [1960], p. 133, English translation in *CLD*, 5, p. 21).

adults and children who are no longer infants are to be confirmed immediately following their baptism, administered in virtue of a faculty granted by law itself (*CIC/83*, c. 883, 2°).

Use of the earlier *Pontificale Romanum* in such cases is not to be presumed. *Summorum Pontificum* (art. 9, §2) grants the faculty to “ordinaries” to celebrate confirmation according to the former *Pontificale Romanum*. The title of ordinary includes diocesan bishops and others who, even if only temporarily, are placed over some particular church or a community equivalent to it according to the norm of *CIC/83*, c. 368 as well as vicars general and episcopal vicars (*CIC/83*, c. 134, §2).⁸⁰ Huels observes that the faculty mentioned in article 9, §2 is a non-jurisdictional faculty of the law and, consequently, it cannot be delegated. Since *Summorum Pontificum* makes no provision for the diocesan bishop to delegate this faculty, priests and bishops who are not ordinaries may not celebrate confirmation according to the former *Pontificale Romanum* without an indult from the Holy See.⁸¹ As such, only ordinaries may use the former *Pontificale Romanum* to confirm adults following their baptism. If the minister of baptism is not an ordinary, this would constitute a grave reason for delaying confirmation (cf. *CIC/83*, c. 866).

2.7.1.3 – Reception of Baptized non-Catholics

A new path for ecumenical relations was forged with the promulgation of the Second Vatican Council’s decree on ecumenism, *Unitatis redintegratio*, which affirmed the following:

⁸⁰ For their own members, major superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right are also numbered among those known as ordinaries (*CIC/83*, c. 134, §2). Huels argues that, since *Summorum Pontificum* makes a favourable provision, it must be interpreted broadly. Consequently, a major superior could administer confirmation – even on those who were not his subjects – according to the 1962 *Pontificale Romanum*, provided he had the requisite faculty to confirm from the diocesan bishop (*CIC/83*, c. 884, §1). See J.M. HUELS, “Reconciling the Old with the New: Canonical Questions on *Summorum Pontificum*,” in *The Jurist*, 68 (2008), p. 102 (=HUELS, “Reconciling the Old with the New”).

⁸¹ Non-jurisdictional faculties may only be delegated if this is permitted by the law. See J.M. HUELS, “The Supply of the Faculty to Confirm in Common Error,” in *Studia canonica*, 40 (2006), pp. 322-325.

In this one and only Church of God from its very beginning there arose certain rifts, which the Apostle strongly censures as damnable. But in subsequent centuries much more serious dissensions appeared and large communities became separated from full communion with the Catholic Church – for which, often enough, men of both sides were to blame. However, one cannot charge with the sin of separation those who at present are born into these communities and in them are brought up in the faith of Christ, and the Catholic Church accepts them with respect and affection as brothers. For men who believe in Christ and have been properly baptized are put in some, though imperfect, communion with the Catholic Church (n. 3).

No longer are baptized non-Catholics referred to as “heretics” or “schismatics” and thereby culpable for the “sin of separation.” The 1967 Ecumenical Directory provided the following instruction on the reception of baptized non-Catholics into the full communion of the Catholic Church:

The Decree on Ecumenism makes clear that the brethren born and baptized outside the visible communion of the Catholic Church should be carefully distinguished from those who, though baptized in the Catholic Church, have knowingly and publicly abjured her faith. According to the Decree, “Those who are now born into Communities of this kind and are imbued with the faith of Christ cannot be accused of the sin of separation’ (ibid., n. 3). Hence, in the absence of such blame, if they freely wish to embrace the Catholic faith, they have not need to be absolved from excommunication, but after making profession of their faith according to the regulations set down by the local Ordinary, they should be admitted to the full communion of the Catholic Church. What [CIC/17] canon 2314 prescribes is applicable only to those who, after culpably giving up the Catholic faith or communion, repent and ask to be reconciled with Mother Church.⁸²

It further states that “what has just been said about absolution from censures must, for the same reason, clearly be said about the abjuration of heresy” (n. 20).

Prior to the Second Vatican Council, the reception of “converts” occurred by means of a profession of faith, abjuration of heresy and, quite frequently, the administration of conditional baptism.⁸³ Continued use of this rite would seriously compromise the ecumenical sensibilities of the Second Vatican Council and the present teachings and discipline of the

⁸² SECRETARIAT FOR CHRISTIAN UNITY, *Ecumenical Directory*, Part I, *Ad totam Ecclesiam*, 14 May 1967, n. 19, in *AAS*, 59 (1967), p. 581, English translation in *CLD*, 6, p. 723

⁸³ SACRED CONGREGATION OF THE HOLY OFFICE, Directives concerning the reception of baptized non-Catholics, 20 July 1859, in *Fontes*, vol. 4, pp. 226-227 n. 953. A new formulation was approved by the Holy Office in 1942 (see *CLD*, 2, pp. 182-184), in addition to a simpler version, approved on 13 June 1956, for use by minors and uneducated adults in the United States (see *CLD*, 5, pp. 407-408). Although the earlier *Rituale Romanum* contained no rite for the reception of baptized non-Catholics or instructions on how this was to occur, the directives of the Holy Office were contained in rituals prepared for various nations, including English translations thereof. See P. WELLER (trans.), *The Roman Ritual in Latin and English with Rubrics and Planechant Notation*, Milwaukee, Bruce Pub. Co., 1950, vol. 1, pp. 576-580.

Church. The profession of faith contained in the earlier *Rituale Romanum* makes explicit mention of the teachings of the Council of Trent and the First Vatican Council.⁸⁴ The use of these earlier formulations of faith is not appropriate for, besides arguably being an implicit denial of the teachings of the Second Vatican Council, they demand from the faithful more than what the present law requires, namely, an abjuration of heresy – even if only implicitly in the profession of faith – and the remission of excommunication (*OICA*, appendix, n. 6). Just as the Tridentine profession of faith was modified in 1877 to incorporate the teachings of the First Vatican Council, a similar adaptation is now required.⁸⁵ For these reasons, one cannot reasonably presume to make use of the earlier provisions for the reception of baptized non-Catholics in accordance with *Summorum Pontificum*. The *Ordo admissionis valide iam baptizatorum in plenam communionem Ecclesiae Catholicae*, duly promulgated as an appendix to the *Ordo initiationis Christianae adultorum*, ought to be used for the reception of baptized non-Catholics – even those attached to earlier liturgical forms.⁸⁶

2.7.2 – The Sacrament of Marriage

Sacrosanctum concilium requested that the rite of marriage be “revised and enriched in such a way that it more clearly signifies the grace of the sacrament and imparts a knowledge of the obligations of the spouses” (*SC*, art. 77). Recalling the Council of Trent, *Sacrosanctum concilium* permits the retention of “praiseworthy customs and ceremonies when celebrating

⁸⁴ *Appendix ad Rituale Romanum*, pars II, I.

⁸⁵ SACRED CONGREGATION OF THE COUNCIL, Decree modifying the profession of faith of the Council of Trent, 20 January 1877, in *Fontes*, vol. 6, pp. 597-598 n. 4236. The following phrase was added. “et ab oecumenico Concilio Vaticano tradita, definita ac declarata, praesertim de Romani Pontificis Primatu et infallibili magisterio”

⁸⁶ Those to be received into the full communion of the Church are to profess the Nicene Creed, followed by: “Credo et profiteor omnia quae ut a Deo revelata credit, docet et annuntiat sancta Ecclesia catholica” (*OICA*, appendix, n. 14). If they have not already been validly confirmed, this can occur within the rite of reception. A priest, who by virtue of his office or a mandate of the diocesan bishop, admits one already baptized into the full communion of the Catholic Church, also possesses, in virtue of the law itself, the faculty to confirm the individual (*CIC/83*, c. 883, 2^o). Only ordinaries, however, may make use of the former *Pontificale Romanum* (*SP*, art. 9, § 2).

the sacrament of marriage.” Moreover, conferences of bishops are free to prepare a rite of marriage “suited to the usages of place and people,” provided that the rite conforms to the law, that is, “the priest assisting at the marriage must ask for and obtain the consent of the contracting parties” (*SC*, art. 77). Unlike the previous *Rituale Romanum* in which the rite of marriage was celebrated before Mass, *Sacrosanctum concilium* specified that marriage is normally celebrated within Mass, after the reading of the gospel and the homily and before the prayers of the faithful. “But if the sacrament of marriage is celebrated apart from Mass, the epistle and gospel from the nuptial Mass are to be read at the beginning of the rite and the blessing is always to be given to the spouses” (*SC*, art. 78).

The first attempts to implement the conciliar constitution, pending the revision of the entire rite of marriage, began with the promulgation of Paul VI’s *motu proprio Sacramentum liturgiam*. It specified that marriage is normally celebrated within Mass after the gospel and homily. Where this does not occur and marriage is celebrated outside Mass, the epistle and gospel of the nuptial Mass are to be read in the vernacular at the beginning of the rite; then the blessing found in the *Rituale Romanum* is always to be given to the spouses (*SL*, n. V). With the approval of the Holy See, conferences of bishops were permitted to introduce the vernacular into the celebration of baptism, confirmation, penance, anointing of the sick, marriage, and the distribution of holy communion, including the essential sacramental forms (*IO*, n. 61). Furthermore, even during forbidden times (cf. *CIC/17*, c. 1108, §2), or when one or both of the spouses is entering a new marriage, the solemn nuptial blessing can be imparted (*IO*, nn. 73, 74d).⁸⁷ The pastor is to advise the spouses, nonetheless, to be mindful of the proper spirit of the particular liturgical season (*IO*, n. 75).

⁸⁷ In permitting this, *Inter oecumenici* derogated from c. 1108, §2 which specified that the solemn nuptial blessing was not to be imparted from the first Sunday of Advent until the Nativity, inclusively, and from Ash Wednesday until Easter, inclusively. The Congregation for Sacred Rites, in response to a proposed *dubium*,

The revised *Ordo celebrandi matrimonium* was promulgated on 19 March 1969 and was to be used beginning 1 July 1969. The *ordo* is comprised of four chapters, containing the rite for celebrating marriage during Mass (chapter I), the rite for celebrating marriage outside Mass (chapter II), the rite for celebrating marriage between a Catholic and an unbaptized person (chapter III), and a selection of texts for use in the marriage rite and in the wedding Mass (chapter IV). The *Ordo celebrandi matrimonium* emphasizes the following:

In the celebration of marriage (which normally should be within Mass), certain elements should be stressed. The first is the liturgy of the word, which brings out the importance of Christian marriage in the history of salvation and the duties and responsibilities it involves for the sanctification of the couple and their children. Also to be emphasized are: the consent of the contracting parties, which the priest asks and receives; the special nuptial blessing on the bride, by which the priest implores God's blessing on the marriage covenant; and, finally, the reception of holy communion by the groom and the bride and by others present, which above all is the source of love and lifts us up into communion with our Lord and with one another (n. 6).

The *Ordo celebrandi matrimonium* was one of the first sacramental rites promulgated after the Second Vatican Council. Bugnini acknowledges that this rite, particularly the *praenotanda*, reveals “the disadvantages attached to being a first born.”⁸⁸ Consequently, a new *editio typica altera* was promulgated on 19 March 1990 which, in addition to incorporating the emendations introduced in accord with the 1983 Code of Canon Law, made a number of enrichments to the rite itself.⁸⁹ An additional chapter has been included for the celebration of marriage before an assisting layperson, as well as the addition of three appendices containing

clarified that the solemn nuptial blessing could be given during these forbidden times without the permission of the local ordinary (CONGREGATION FOR SACRED RITES, Reply concerning the nuptial blessing, 24 November 1965, in *Notitiae*, 2 [1966], p. 181, English translation in *DOL*, n. 347, p. 920).

⁸⁸ BUGNINI, *Reform of the Liturgy*, p. 699.

⁸⁹ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Decree promulgating the *editio typica altera* of the *Ordo celebrandi Matrimonium, Ritus celebrandi Matrimonium*, 19 March 1990, in *Notitiae*, 26 (1990), p. 300; *Ordo celebrandi Matrimonium, editio typica altera*, 19 March 1990, Typis Polyglottis Vaticanis, 1991. For an overview of the emendations introduced, see J. EVENOU, “Commentarium,” in *Notitiae*, 26 (1990), pp. 310-327. See also BISHOPS' COMMITTEE ON THE LITURGY, *Thirty-Five Years of the BCL Newsletter: 1965-2000*, Washington, DC, United States Conference of Catholic Bishops, 2004, pp. 1233-1236. Despite nearly twenty years since its promulgation, no English translation has been approved.

samples of general intercessions, blessings for an engaged couple, and an order of blessing within Mass on the anniversary of marriage.

Apart from where the earlier *Rituale Romanum* describes the manner in which the rite is to be celebrated, the current discipline is to be observed. Three examples taken from the former *Rituale Romanum* clearly illustrate this point. Firstly, the law prescribing the publication of banns is no longer a strict obligation.⁹⁰ Conferences of bishops are to establish norms concerning the publication of marriage banns which, in some places, remain only one way to ascertain the freedom of the parties to marry (*CIC/83*, c. 1067). Secondly, conferral of the nuptial blessing can occur at anytime, since c. 1108 of the 1917 Code, which prohibited this blessing during certain times of the year, has been abrogated with the promulgation of the 1983 Code of Canon Law (cf. *CIC/83*, c. 6, §1, 1°).⁹¹ Finally, the provisions on mixed marriage, that is, marriages between Catholics and baptized non-Catholics, have been significantly revised. Mixed marriages no longer constitute an impediment to marriage (cf. *CIC/17*, c. 1060), and the Catholic party assumes no obligation to work prudently for the conversion of the non-Catholic spouse (cf. *CIC/17*, c. 1062). Both the earlier *Rituale Romanum* and the 1917 Code prescribed that mixed marriages were to take place outside a church unless dispensed by the ordinary.⁹² This restriction has been abrogated, and mixed marriages are now to take place in a parish church (*CIC/83*, c. 1118, §1). Where the norms contained in the earlier *Rituale Romanum* cannot be reconciled with those of the 1983 Code, the latter prevail.

⁹⁰ *Rituale Romanum*, VII, 1, 6-11, *CIC/17*, c. 1019

⁹¹ *Ibid*, VIII, 1, 16

⁹² *Ibid*, VIII, 1, 20, *CIC/17*, c. 1109, §3

2.7.3 – Sacrament of Penance

Sacrosanctum concilium devoted only one concise paragraph to the sacrament of penance: “The rites and formularies for the sacrament of penance are to be revised so that they may more clearly express both the nature and effect of the sacrament” (n. 72). The process of revision was arduous and involved consultation with other dicasteries. The principal difficulties concerned a proposed rite for reconciliation of several penitents with general absolution and the revision of the sacramental form, that is, the words of absolution.

A new rite of penance was promulgated on 2 December 1973 by the Sacred Congregation of Divine Worship.⁹³ The *Ordo paenitentiae* contains three distinct forms of the sacrament: the rite of reconciliation of individual penitents (chapter I), the rite of reconciliation of several penitents with individual confession and absolution (chapter II), and the rite of reconciliation of several penitents with general confession and absolution (chapter III). A final chapter includes various texts for optional use in the celebration of reconciliation. Three appendices are also included, the first one concerning the remission of censures and dispensations from irregularities, the second one containing sample non-sacramental penitential services, and the third one providing a model form for an examination of conscience.

The first and second forms are similar in as much as they include individual confessions and absolutions. In the latter case, the individual confession and absolution take place within a communal celebration, showing more clearly the ecclesial nature of penance:

The faithful listen together to the word of God, which as it proclaims his mercy invites them to conversion; at the same time they examine the conformity of their lives with that word of God

⁹³ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica* of the new rite of penance *Reconciliationem inter Deum et homines*, 2 December 1973, in *AAS*, 66 (1974), pp. 172-173, English translation in *DOL*, n. 367, pp. 955-956; *Ordo paenitentiae*, 2 December 1973, Typis Polyglottis Vaticanis, 1974. A lengthy commentary is provided in P. JOUNEL, “La liturgie de la réconciliation,” in *La Maison-Dieu*, 117 (1974), pp. 7-37. See also F. SOTTOCORNO, “Les nouveaux rites de la pénitence. Commentaire,” in *Questions liturgiques*, 55 (1974), pp. 89-136.

and help each other through common prayer. After confessing and being absolved individually, all join in praising God together for his wonderful deeds on behalf of the people he has gained for himself through the blood of his Son (n. 22).

An individual, integral confession and absolution constitutes the sole ordinary means for a member of the faithful who is conscious of serious sin to be reconciled to God and the church (*OP*, n. 31, *CIC/83*, c. 960). Nevertheless, a third form of reconciliation with general confession and absolution is permissible under certain conditions. These conditions and the possibilities for use in accordance with the provisions of *Summorum Pontificum* will be discussed below.

Most of the norms for the rite of administering the sacrament of penance in the earlier *Rituale Romanum* were exhortative, providing instruction and guidance for confessors. For the most part, these norms do not conflict with the present law. One exception concerns the distinction made between male and female penitents.⁹⁴ This distinction is no longer made, and the provisions of c. 964 are to be observed in place of the more restrictive provisions of the earlier *Rituale Romanum*. Furthermore, reference to the remission of reserved sins is now anachronistic;⁹⁵ such sins are not mentioned in the 1983 Code of Canon Law.

The form of absolution in the earlier *Rituale Romanum* makes reference to the absolution from every bond of excommunication, suspension, and interdict, in addition to the absolution from sin.⁹⁶ This blurring of the remission of censures and the absolution of

⁹⁴ *Rituale Romanum*, IV, 1, 8-9.

⁹⁵ *Ibid*, IV, 1, 23; cf. *CIC/17*, cc. 893-900.

⁹⁶ “Dominus noster Iesus Christus te absolvat: et ego auctoritate ipsius te absolvo ab omni vinculo excommunicationis, suspensionis, et interdicti, in quantum possum, et tu indiges. Deinde ego te absolvo peccatis tuis, in nomine Patris, et Filii, et Spiritus Sancti. Amen. Passio Domini nostri Jesu Christi merita beatae Mariae Virginis, et omnium Sanctorum, quidquid boni feceris, et mali sustinueris, sint tibi in remissionem peccatorum, augmentum gratiae, et praemium vitae aeternae. Amen.” If the penitent was a member of the laity, the word *suspensionis* was omitted. In urgent necessity, it was sufficient to use the short

sin has been corrected in the *Ordo paenitentiae* which makes no mention of the absolution of censures in the words of absolution.⁹⁷ Nevertheless, the remission of censures may occur on the occasion of sacramental reconciliation. Both the earlier *Rituale Romanum* and the current *Ordo paenitentiae* provide for the remission of censures within and outside the sacrament of penance. In the case of the earlier rite, this remission is explicitly included in the common form of absolution. In the *Ordo paenitentiae*, the remission from censures can be either implicit, provided the confessor intends to absolve also from censures, or explicitly stated before the absolution from sin.⁹⁸

Whether the remission occurs within the external or internal forum, the priest must be permitted by law to remit the censure. In our examination of sacrament of penance, we will restrict ourselves to the internal forum. Canon 1357, §1 of the 1983 Code of Canon Law states:

Without prejudice to the provisions of cc 508 and 976, a confessor can in the internal sacramental forum remit a *latae sententiae* censure of excommunication or interdict which has not been declared, if it is difficult for the penitent to remain in a state of grave sin for the time necessary for the competent superior to provide.

A confessor possesses the faculty to remit the censures of excommunication and interdict provided: (1) it is difficult for the penitent to remain in the state of grave sin while the Holy

form. “Ego te absolvo ab omnibus censuris, et peccatis, in nomine Patris, et Filii, et Spiritus Sancti. Amen” (*Rituale Romanum*, IV, 11, 2).

⁹⁷ The power to celebrate the sacrament of penance is a power of order of the divine law, whereas the remission of a censure is an exercise of the power of governance, possessed in virtue of the law itself (*a iure*) or obtained by personal delegation (*ab homine*). To validly celebrate the sacrament of penance, one must possess both the power of order and the requisite faculty. Huels states that “[i]n virtue of his presbyteral ordination, the priest has the power to celebrate the sacraments of confirmation and reconciliation, but before that power can be activated, he needs the faculty, whether by law or by delegation from the competent authority” (J.M. HUELS, *Empowerment for Ministry*, New York/Mahwah, NJ, Paulist Press, 2003, p. 24). The power to remit censures, however, is not an exercise of the power of orders but an exercise of the power of governance – even within the internal sacramental forum.

⁹⁸ For the remission of penalties in the external forum, or before the remission of sin in the internal forum, the following formula is used. Potestate mihi concessa, ego te absolvo a vinculo excommunicationis (vel suspensionis vel interdicti). In nomine Patris, et Filii, et Spiritus Sancti. Amen (*Ordo Paenitentiae*, appendix I, “De absolutone a censuris”, p. 79).

See or someone with the faculty is contacted and a response is received; (2) this remission occurs within the sacrament of penance; (3) the *latae sententiae* censure of excommunication and interdict, even those reserved to the Holy See, are not declared or imposed. It follows that a confessor does not have the faculty to remit expiatory penalties, *ferendae sententiae* censures, *latae sententiae* censures of excommunication and interdict if they have been declared or imposed, the censure of suspension,⁹⁹ or dispense from an irregularity or impediment to the exercise of orders.¹⁰⁰ In granting this remission, the confessor is to impose a fitting penance, require reparation of scandal and damage, and inform the penitent of the obligation to have recourse within one month to the competent superior or to a priest possessing the requisite faculty. This recourse may be made through the confessor without mention of a name (c. 1357, §2).

The use of the earlier Ritual for the sacrament of penance does not present serious difficulties. The only substantial difference, besides the ancillary issue of the remission of censures and dispensations for irregularities noted above, concerns the words of absolution which were significantly changed with the promulgation of the *Ordo paenitentiae*. Should the earlier ritual be used, the sacramental form contained therein ought to be used. Whereas the

⁹⁹ There is no conceivable need to remit a *latae sententiae* suspension within the internal sacramental forum. A *latae sententiae* suspension, which has not been declared, is “suspended whenever one of the faithful requests a sacrament or sacramental or an act of the power of governance” (c. 1335). Furthermore, a suspension does not prohibit a cleric from receiving the sacrament of penance (c. 1331, §1).

¹⁰⁰ Whereas the 1917 Code provided all confessors the faculty to dispense from irregularities for the exercise of orders received in urgent occult cases when it was impossible to have recourse to the ordinary (c. 990, §2), the 1983 Code provides for this situation differently: “In more urgent occult cases, if the ordinary or, when it concerns the irregularities mentioned in c. 1041, nn. 3 and 4, the Penitentiary cannot be approached and if there is imminent danger of grave harm or infamy, a person impeded by an irregularity from exercising and order can exercise it, but without prejudice to the obligation which remains of making recourse as soon as possible to the ordinary or the Penitentiary, omitting the name and through a confessor” (c. 1048). Although c. 1048 refers to recourse through confessors, nothing impedes the cleric from making direct recourse to his ordinary or the Apostolic Penitentiary (W.H. WOESTMAN, *The Sacrament of Orders and the Clerical State*, 3rd rev. ed., Ottawa, Saint Paul University, 2006, p. 86). While the present law does not provide confessors with the faculty to dispense from irregularities, a habitual faculty may be delegated by the diocesan bishop and included in the diocesan *pagella* (see c. 1047, §4). Of course, this can only be done for irregularities not reserved to the Holy See and provided the case is not publicly known (see J.M. HUELS, *Empowerment for Ministry*, New York/Mahwah, NJ, Paulist Press, 2003, p. 113).

sacramental forms for the anointing of the sick and confirmation were altered by means of a separate apostolic constitution, the sacramental form for absolution is specified in the revised *Ordo paenitentiae*. Consequently, there is no question that permission to use the earlier *Rituale Romanum* for the sacrament of penance also includes the specified form of absolution.

The *Ordo paenitentiae* provides two additional forms for the sacrament of penance and helpful appendices for non-sacramental penitential services and an examination of conscience. There is no reason why these could not be employed, either in Latin or in the vernacular, especially during the seasons of Lent and Advent. For example, a communal reconciliation service, according to models provided in the *Ordo paenitentiae*, could precede individual confession and absolution according to the earlier rite of the *Rituale Romanum*. Similarly, the faithful adhering to earlier liturgical forms ought to benefit, in accordance with the norms of law, from the rite of reconciliation of several penitents with general confession and absolution. General absolution is exceptional in nature and can only be used under the following two circumstances:

- 1° danger of death is imminent and there is insufficient time for the priest or priests to hear the confessions of the individual penitents;
- 2° there is grave necessity, that is, when in view of the number of penitents, there are not enough confessors available to hear the confessions of individuals properly within a suitable period of time in such a way that the penitents are forced to be deprived for a long while of sacramental grace or holy communion through no fault of their own. Sufficient necessity is not considered to exist when confessors cannot be present due only to the great number of penitents such as can occur on some great feast or pilgrimage.¹⁰¹

To validly receive sacramental absolution given to many at one time, “it is required not only that the person is properly disposed but also at the same time intends to confess within a suitable period of time each grave sin which at the present time cannot be confessed” (c. 962, §1).

¹⁰¹ CIC/83, c. 961, §2. For further clarifications, see JOHN PAUL II, Apostolic letter *motu proprio* on the use of general absolution *Misericordia Dei*, 7 April 2002, in *AAS*, 94 (2002), pp. 452-459, English translation in *Origins*, 32 (2002-2003), pp. 13-16.

The *Ordo paenitentiae* prescribes the rite to be used for administering absolution in this manner. Yet a short rite is also provided, consisting solely of a brief reading from scripture, the necessary instruction concerning requirements for validity (cf. c. 962, §2), a general confession and absolution (*OP*, n. 64). In imminent danger of death, however, it is sufficient to use the form of absolution itself (n. 65). Since the rite contained in the *Ordo paenitentiae* contains no fewer than three forms of absolution, there is no reason why the form of absolution contained in the earlier *Rituale Romanum* could not be employed in these circumstances.¹⁰²

2.7.4 – Indulgences

Closely connected to the sacrament of penance is the topic of indulgences, although the latter has never been included in the *Rituale Romanum*. It is considered here as a matter of convenience and for the sake of completeness. The 1983 Code of Canon Law defines an indulgence as “the remission before God of temporal punishment for sins whose guilt is already forgiven, which a properly disposed member of the Christian faithful gains under certain and defined conditions by the assistance of the Church which as minister of redemption dispenses and applies authoritatively the treasury of the satisfactions of Christ and the saints” (*CIC/83*, c. 992).¹⁰³ Although no conciliar text raised this topic, a significant

¹⁰² An instruction prepared by the Sacred Apostolic Penitentiary on the use general absolution during times of war provided for the use of two sacramental forms: (1) the usual and complete formula, but in the plural, contained in the *Rituale Romanum*, or (2) the shorter formula, also contained in the *Rituale Romanum*, which consisted of the following: “Ego te absolvo ab omnibus censuris, et peccatis, in nomine Patris, et Filii, et Spiritus Sancti Amen.” See SACRED APOSTOLIC PENITENTIARY, Instruction on general absolution in time of war *Ut dubia*, 25 March 1944, in *AAS*, 36 (1944), pp. 155-156, English translation in *CLD*, 3, pp. 377-379. The *Rituale Romanum* also contains the *Ritus absolutionis generalis et benedictionis Papalis*, originally for use by those religious orders which enjoyed the privilege of granting general absolution. The continued use of this rite is questionable since the form of absolution would require significant alteration to correspond to the present circumstances (see *Rituale Romanum*, IV, vi, 3).

¹⁰³ Woestman draws the following important distinctions: (1) an indulgence may be gained only for sins for which a person is penitent and has been forgiven (*ID*, n. 8); (2) an indulgence is a remission before God of the temporal punishment due to sin, not a remission of an ecclesiastical penalty (*ID*, n. 8), (3) the individual must be properly disposed; “remission will be in proportion to the charity of the one acting” (*ID*, n.

revision of its discipline occurred by means of Paul VI's apostolic constitution *Indulgentiarum doctrina*.¹⁰⁴ The new norms addressed three principal issues: (1) the establishment of a new measure for partial indulgences, (2) the reduction of the number of plenary indulgences, and (3) the reduction and organization of indulgences attached to objects and places into a simpler and worthier form. Remission from temporal punishment was to be "in proportion to the charity of the one acting and the value of the work done" (*ID*, n. 12). Partial indulgences, therefore, were to be no longer measured in terms of days and years. Plenary indulgences were to be greatly reduced in number, not to deprive the faithful of their benefits but to assist them in their proper disposition and sufficient preparation. The terms "real" and "local" indulgences were to be suppressed entirely, so as to clarify that it is the faithful's acts which are the subject of indulgences, not things or places which are merely occasions for gaining indulgences. The *Enchiridion indulgentiarum* was to be revised so as to reflect the changes introduced into the discipline concerning indulgences.

Those attached to earlier liturgical forms may be inclined to make use of prayer books, devotional booklets, or liturgical manuals originally published before these legislative changes.¹⁰⁵ The faithful must be made aware of this change of discipline and properly

12); (4) the individual must fulfill the conditions required for gaining the indulgence (*ID*, norm 1); (5) an indulgence is obtained with the help of the Church acting as the minister of redemption (*ID*, norm 1); (6) the Church acting with authority dispenses and applies the treasury of the Church (*ID*, nn. 8, 5). See W.H. WOESTMAN, *Sacraments: Initiation, Penance, Anointing of the Sick*, 3rd rev. ed., Ottawa, Saint Paul University, 2004, p. 305.

¹⁰⁴ PAUL VI, Apostolic constitution on indulgences *Indulgentiarum doctrina*, 1 January 1967, in *AAS*, 59 (1967), pp. 5-24, English translation in *DOL*, n. 386, pp. 995-1009.

¹⁰⁵ The last edition of the *Enchiridion indulgentiarum* published before the Second Vatican Council remains the *Enchiridion indulgentiarum – Preces et pia Opera in favorem omnium christifidelium vel quorundam coetuum personarum Indulgentis ditata et opportune recognita*, 30 January 1950, Typis Polyglottis Vaticanis, 1950. For an approved English translation, see *The Raccolta: A Manual of Indulgences, Prayers and Devotions Enriched with Indulgences*, New York, Benzinger Brothers, Inc., 1957.

instructed on the conditions necessary for acquiring both plenary¹⁰⁶ and partial¹⁰⁷ indulgences. The norms of the 1983 Code of Canon Law (cc. 992-997) and the revised *Enchiridion indulgentiarum* are to be observed. The *Enchiridion indulgentiarum* contains supplemental law regulating the grant and acquisition of indulgences in addition to the actual concession of various indulgences.¹⁰⁸ All indulgences previously granted which were not incorporated into the revised *Enchiridion indulgentiarum* are explicitly suppressed.¹⁰⁹ To promote or even tacitly permit the use of earlier prayer books or manuals which do not reflect these changes is dangerously misleading and disingenuous.

One indulgence which was retained is the apostolic blessing to be imparted to those in danger of death. The task of imparting this blessing and plenary indulgence is entrusted especially to parish priests (*CIC/83*, c. 530, 3^o). The earlier *Rituale Romanum* contains a rather elaborate rite for imparting the apostolic blessing. In the case of necessity, a shorter prayer is provided.¹¹⁰ The revised *Ordo unctionis infirmorum* provides two formulas for imparting the apostolic blessing, the first of which resembles the earlier *Rituale Romanum*.¹¹¹ Neither the

¹⁰⁶ In addition to the general requirement of *CIC/83*, c. 996, the fulfillment of the following three traditional conditions are required to obtain a plenary indulgence: sacramental confession, eucharistic communion, prayer for the pope's intentions. "A further requirement is the exclusion of all attachment to sin, even venial sin. Unless this unqualified disposition and the three conditions are present, the indulgence will be only partial" (*ID*, norm 7).

¹⁰⁷ In addition to the general requirement of *CIC/83*, c. 996, there is a further requirement of "being at least inwardly contrite" (*ID*, norm 5).

¹⁰⁸ APOSTOLIC PENITENTIARY, Decree promulgating the *editio quarta* of the *Enchiridion indulgentiarum*, 16 July 1999, in *AAS*, 92 (2000), pp. 301-302; *Enchiridion indulgentiarum, editio quarta*, 16 July 1999, Libreria editrice Vaticana, 1999

¹⁰⁹ See SACRED APOSTOLIC PENITENTIARY, Decree promulgating the new *editio typica* of the *Enchiridion indulgentiarum*, 29 June 1968, in *AAS*, 60 (1968), pp. 413-414, English translation in *DOL*, n. 389, pp. 1010-1011.

¹¹⁰ The *Ritus Benedictiois Apostolicae cum indulgentia plenaria in articulo mortis* specifies that, in case of necessity, the following brief formula may be used: Ego, facultate mihi ab Apostolica Sede tributa, indulgentiam plenariam et remissionem omnium peccatorum tibi concedo, et benedico te. In nomine Patris, et Filii, et Spiritus Sancti. Amen (*Rituale Romanum*, VI, vi, 7).

1983 Code of Canon Law nor the *Enchiridion indulgentiarum*, both of which instruct priests to impart the blessing in danger of death, prescribe the correct formula to be used; this is left to the respective liturgical rite. Since *Summorum Pontificum* has permitted the use of the earlier *Rituale Romanum* for the administration of the sacrament of the anointing of the sick, and the apostolic blessing is contained within this rite, the more elaborate formula may be used to impart the plenary indulgence when using the earlier *Rituale Romanum*.

The *Enchiridion indulgentiarum*, n. 11, states that express permission of the Apostolic See is required to lawfully publish, in any language, the complete *Enchiridion indulgentiarum*. Furthermore, all books, pamphlets or any other publication which list grants of indulgences may not be published without the permission of the local ordinary.¹¹² Publishers are to observe these norms and seek the necessary permission of the local ordinary for the subsequent reprinting of any publication which makes reference to indulgences, ensuring the correct use of terminology, the removal of suppressed indulgences, and the proper implementation of the present legislation.

2.7.5 – Anointing of the Sick

Sacrosanctum concilium devoted three paragraphs to the sacrament of “extreme unction” or “anointing of the sick,” yet carefully avoided “the complex historical, liturgical, and theological questions concerning this sacrament.”¹¹³ Recalling that the sacrament is not only for those at the point of death, it affirms that “as soon as any one of the faithful begins

¹¹¹ The first formula closely resembles the earlier ritual: “Ego, facultate mihi ab Apostolica Sede tributa, indulgentiam plenariam et remissionem omnium peccatorum tibi concedo, in nomine Patris, et Filii, et Spiritus Sancti. Amen.” A second formula is also provided: “Per sacrosancta humanae reparationis mysteria, remittat tibi omnipotens Deus omnes praesentis et futurae vitae poenas, paradisi portas aperiat et ad gaudia te sempiterna perducatur. Amen” (OU, n. 106).

¹¹² The local ordinary whose permission must be sought in compliance with this norm is the proper local ordinary of the author or the ordinary of the place where the books are published (cf. CIC/83, c. 824, §2)

¹¹³ F.R. MCMANUS, “The Sacrament of the Anointing of the Sick [cc. 998-1007],” in *CLSA Comm2*, p. 1179 (=MCMANUS, “The Sacrament of the Anointing of the Sick”).

to be in danger of death from sickness or old age, the fitting time for that person to receive this sacrament has certainly already arrived (*SC*, art. 73).¹¹⁴ *Sacrosanctum concilium* called for the formulation of a continuous rite “structured so that the sick person is anointed after confessing and before receiving viaticum,” and this in addition to the separate rites for anointing of the sick and for viaticum (*SC*, art. 74). The Constitution also called for the number of anointings to be adapted both to the circumstances and the revision of the accompanying prayers, so as to correspond to the varying conditions of the sick who receive the sacrament (*SC*, art. 75). Although only brief attention was paid to this sacrament, *Sacrosanctum concilium* initiated a comprehensive reform of the liturgical rite along with the liturgical laws which govern its celebration.

A preliminary measure was taken by the Congregation for Sacred Rites, granting local ordinaries the faculty to permit priests to carry the oil of the sick with them while travelling.¹¹⁵ This decree, explicitly derogating from c. 946 of the 1917 Code of Canon Law, was intended to make the sacrament of extreme unction more widely available to the dying. In the meantime, preparation was underway for the revision of the entire sacramental rite. Although a schema of the revised rite was approved by the Congregation for Divine Worship in 1970, two principal questions delayed its promulgation: (1) the subject of the

¹¹⁴ McManus observes: “In addition it should be noted that the Council prescinds entirely from the theological issue: whether the Church, if it so willed, could permit the administration of this sacrament to those who are gravely ill but in no danger of death. The Council neither confirms nor denies this opinion, anymore than it affirms or denies the more common opinion that the danger of death is necessary, or even the opinion that the necessity for the danger of death in the reception of this sacrament is something doctrinally defined and beyond the power of the Church to change. In other words, the article avoids entering into historical and theological disputes, and rather settles the pastoral question in the discipline of the sacrament of anointing, indicating that it should be administered at the very beginning of that grave illness which may lead to death (F.R. MCMANUS, *Sacramental Liturgy*, New York, Herder and Herder, 1967, p. 139).

¹¹⁵ CONGREGATION FOR SACRED RITES, Decree on priests carrying the oil of the sick when travelling *Pientissima Mater Ecclesia*, 4 March 1965, in *AAS*, 57 (1965), p. 409, English translation in *DOL*, n. 407, p. 1050.

sacrament and (2) the repeatability of the sacrament.¹¹⁶ These are precisely the questions that *Sacrosanctum concilium* avoided.

The 1917 Code of Canon Law addressed both of these issues in c. 940:

§1. Extreme unction is not to be extended except to the faithful who, having obtained the use of reason, come into danger of death from infirmity or old age.

§2. This sacrament is not to be repeated for the same infirmity unless the infirm one, after having received the anointing, recovered and fell into another danger for his life.¹¹⁷

The subject of the sacrament was a source of debate before the Second Vatican Council. The most commonly held opinion asserted that, for the sacrament to be validly administered, the subject must be in danger of death (*in periculo mortis*).¹¹⁸ A prudent and probable judgement that there is a danger of death was sufficient to validly and licitly administer the sacrament.¹¹⁹ This sacrament was routinely delayed until death was imminent.¹²⁰ Although the Council avoided resolving this troubling issue, Paul VI did not hesitate to state that the sacrament was to be given to those who are “seriously ill” (*periculose*

¹¹⁶ See BUGNINI, *The Reform of the Liturgy*, pp. 684-690.

¹¹⁷ §1 *Extrema unctio praebere non potest nisi fidei, qui post adeptum usum rationis ob infirmitatem vel sentum in periculo mortis versetur*; § 2. *In eadem infirmitate hoc sacramentum iterari non potest, nisi infirmus post susceptam unctionem convaluerit et in aliud vitae discrimen incidit.*

¹¹⁸ See, for example, G. LESAGE, “Sources textuelles des canons relatives à l’extrême onction,” in *Revue de l’Université d’Ottawa* [section spéciale], 29 (1959), pp. 71-72; A. BLAT, *Commentarium textus Codicis iuris canonici*, 6 vols., Rome, Ex Typographia Pontificia in Instituto Pii IX, 1921-1938, vol. III, pp. 342-344; J.A. ABBO and J.D. HANNON, *The Sacred Canons*, rev. ed., 2 vols., St. Louis, MO, B. Herder Book Co., 1957, vol. II, p. 61; A. VERMEERSCH and I. CREUSEN, *Epitome iuris canonici*, 3 vols., Rome, H. Dussan, 1949-1956, vol. II, p. 153. For an alternate viewpoint, see C.G. RENATI, *The Recipient of Extreme Unction*, Canon Law Studies, n. 419, JCD dissertation, Washington, The Catholic University of America, 1961, p. 80-81.

¹¹⁹ “Neque enim, ut sacramentum valide liciteque detur, necesse est ut mors proxime secutura timeatur, sed satis est ut prudens seu probabile adsit de periculo iudicium, quodsi in ea rerum condicione conferri debet, in hac conferri utique potest, et qui illud curet ministrandum, is Ecclesiae Matris non modo doctrinam sequitur, sed optata pie ac salubriter perficit” (PIUS XI, Apostolic letter *Explorata res*, 2 February 1923, in *AAS*, 15 [1923], p. 105).

¹²⁰ Consider, for example, the following advice: “It will be evident that the further the administration of the sacrament is removed from the moment of death, the less effectually, owing to the subsequent accumulation of inevitable daily faults, can it produce this proper effect of preparing the way for prompt entry into glory” (L.L. MCREAVY, “Extreme Unction – How Near to Death?,” *The Clergy Review*, 40 [1955], p. 491).

aegrotantibus).¹²¹ The revised *Ordo Unctionis infirmorum* repeats this and specifies that the administration of the sacrament is permitted for those undergoing an operation whenever a dangerous illness is the cause of the surgery (n. 10), or when the elderly are notably weakened even though no serious illness is present (n. 11). Similarly, sick children may be anointed if they have sufficient use of reason to be comforted by this sacrament (n. 12).¹²² This was further emphasized in a homily given by Paul VI at a communal anointing of the sick in St. Peter's Square:

Here as in the other sacraments the Church's main concern is, of course, the soul, pardon for sin, and the increase of God's grace. But also, to the extent that it is up to the Church, its desire and intent is to obtain relief and, if possible, even healing for the sick ... The revision's intent was to make the overall purposes of the rite clearer and to lead to a wider availability of the sacrament and to extend it – within reasonable limits – even beyond the cases of mortal illness.¹²³

Without explicitly mentioning the danger of death, the degree of gravity or seriousness of the illness is left somewhat open by Paul VI and the revised *Ordo Unctionis infirmorum*.

McManus reflects that

[t]his was done not to minimize the seriousness of the condition which calls for the celebration of the sacrament but to remove all hesitation about when it will be proper and fruitful to celebrate the sacrament. It also serves to correct what are now considered abuses or aberrations in the tradition: to reserve the sacrament for cases of persons *in extremis*, to postpone the celebration until there is a high likelihood or near certainty of death, to insist upon medical confirmation of the possibility or even proximity of death, or to consider the anointing in itself or primarily the sacrament of the dying.¹²⁴

¹²¹ PAUL VI, Apostolic constitution on the sacrament of the anointing of the sick *Sacram Unctionem infirmorum*, 30 November 1972, in *AAS*, 65 (1973), pp. 5-9, English translation in *DOL*, n. 408, pp. 1051-1053. For a commentary on the new rite, see P.-M. GY, "Le nouveau rituel romain des malades," in *La Maison-Dieu*, 113 (1973), pp. 29-49; A.G. MARTIMORT, "Le nouveau rituel des malades," in *Notitiae*, 9 (1973), pp. 66-69.

¹²² SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica* of the rites for the pastoral care of the sick, anointing, and viaticum *Infirmis cum Ecclesia*, 7 December 1972, in *AAS*, 65 (1972), pp. 275-276, English translation in *DOL*, n. 409, pp. 1053-1043; *Ordo Unctionis infirmorum eorumque pastoralis curae*, 7 December 1972, Typis Polyglottus Vaticanis, 1972.

¹²³ PAUL VI, Homily at a communal anointing of the sick during Mass, 5 October 1975, in *Notitiae*, 11 (1975), pp. 257-258, English translation in *DOL*, n. 412, p. 1062.

¹²⁴ MCMANUS, "The Sacrament of the Anointing of the Sick," p. 1188.

A careful balance between needless restriction and indiscriminate application is thus maintained.¹²⁵

The 1917 Code, along with the former *Rituale Romanum*, specified that the sacrament could be repeated only in the case of a new illness or relapse occurring after a cure or recovery from the original danger.¹²⁶ The apostolic constitution *Sacram Unctionem infirmorum* considerably expands this provision: “The sacrament may be repeated if the sick person recovers after being anointed and then again falls ill or if during the same illness the person’s condition becomes more serious.” One no longer needs to recover or contract a new illness before qualifying anew for the reception of the sacrament.

In addition to resolving matters relating to c. 940 of the 1917 Code, Paul VI derogated from a number of canons and liturgical laws contained in the former *Rituale Romanum*. In the apostolic constitution which approved the changes introduced into the rite, he established the following:

The sacrament of the anointing of the sick is given to those who are seriously ill by anointing them on the forehead and hands with blessed olive oil or, according to circumstances, with another blessed plant oil and saying once only these words ‘Through this holy anointing may the Lord in his love and mercy help you with the grace of the Holy Spirit May the Lord who frees you from sin save you and raise you up.

In case of necessity, however, it is sufficient that a single anointing be given on the forehead or, because of the particular condition of the sick person, on another suitable part of the body while the whole sacramental form is used.¹²⁷

¹²⁵ An explanatory note contained in English-language rituals states the following: “The word *periculose* has been carefully studied and rendered as ‘seriously,’ rather than as ‘gravely,’ ‘dangerously,’ or ‘perilously.’ Such a rendering will serve to avoid restrictions upon the celebration of the sacrament. On the one hand, the sacrament may and should be given to anyone whose health is seriously impaired; on the other hand, it may not be given indiscriminately or to any person whose health is not seriously impaired” (*Pastoral Care of the Sick: Rites of Anointing and Viaticum*, Washington, DC, International Commission on English in the Liturgy, 1982, p. 13)

¹²⁶ See *Rituale Romanum*, VI, 1, 8; *CIC/17*, c. 940, §2.

¹²⁷ *Sacramentum Unctionis infirmorum confertur infirmis periculose aegrotantibus, eos linendo in fronte et in manibus oleo olivarum aut, pro opportunitate, alio oleo e plantis, rite benedicto, haec verba, una tantum vice, proferendo: «Per istam sanctam unctionem et suam piissimam misericordiam adiuvet te Dominus gratia Spiritus Sancti, ut a peccatis liberatum te salvet atque propitius allevet».*

In casu tamen necessitatis, sufficit, ut peragatur unica unctio in fronte vel, propter peculiarem infirmi conditionem, in alia parte corporis aptiore, integra formula prolata. See PAUL VI, Apostolic constitution on the

The first thing to note is the permissibility of additional plant oils. The 1917 Code prescribed that only olive oil could be used in the administration of extreme unction (*CIC/17*, c. 945). Due to many requests from bishops, especially in places olive oil is unavailable, Paul VI permitted the use of any kind of oil, provided it is derived from plants and thus similar to olive oil. The 1917 Code of Canon Law prescribed that the oil to be used must be blessed for this purpose by the bishop or by a priest who had received a faculty from the Apostolic See. The revised *Ordo* permits any priest to bless the oil to be used in the anointing, provided it is a case of true necessity and occurs during the actual celebration of the sacrament (nn. 21-22).¹²⁸

Another notable derogation concerns the number of prescribed anointings. The former *Rituale Romanum*, and indirectly c. 947 of the 1917 Code, prescribed five anointings, namely, on the eyes, ears, nose, mouth, and hands. The feet were also to be anointed, although this anointing could be omitted for a reasonable cause.¹²⁹ Paul VI's apostolic constitution prescribed only two anointings, administered on the forehead and hands or, in the case of necessity, just one anointing. These anointings are to be administered with a revised sacramental form.

The revised rite itself is divided into seven chapters: the visitation and communion of the sick (chapter I), the order of anointing the sick (chapter II), Viaticum – both within and outside Mass (chapter III), the order for administering the sacraments of penance, anointing and viaticum to people in proximate danger of death (chapter IV), confirmation in danger of

sacrament of anointing of the sick *Sacram Unctionem infirmorum*, 30 November 1972, in *AAS*, 65 (1973), pp. 5-9, English translation in *DOL*, n. 408, pp. 1051-1053.

¹²⁸ This faculty was already conceded in the *Ordo benedicendi oleum* which permitted all priests, in the case of necessity, to bless the oil of the sick and the oil of catechumens (*Ordo benedicendi oleum catechumenorum et infirmorum et conficiendi chrisma*, 3 December 1970, n. 8, Typis Polyglottis Vaticanis, 1971, p. 8).

¹²⁹ *Rituale Romanum*, VI, 1, 15.

death (chapter V), the order of the commendation of the dying (chapter VI), and a collection of texts, prayers, and scriptural readings for use *ad libitum* (chapter VII). Vernacular translations were to come into effect on the dates to be established by the conferences of bishops. The old rite, however, could only be used until 1 January 1974, after which the revised rite was to be exclusively used in either Latin or in the approved vernacular translations.¹³⁰

Both the apostolic constitution *Sacram unctionem infirmorum* and the laws contained in the *praenotanda* of the *Ordo unctionis infirmorum* have been successfully incorporated into cc. 998-1007 of the 1983 Code of Canon Law. Although *Summorum Pontificum* has permitted the use of the earlier *Rituale Romanum*, the present law must be observed where discrepancies exist, most notably concerning the proper matter, the eligibility of the recipient, and the repetition of the sacrament in individual cases. It remains doubtful whether the new sacramental form, approved by Paul VI, may be used in administering this sacrament according to the provisions of the preconciliar *Rituale Romanum*.¹³¹ To respect the integrity of the rite of *Extrema Unctio* – which calls for six distinct anointings accompanied by six separate formulas – the old sacramental form ought to be used. In this case, *Summorum Pontificum* has derogated from Paul VI's apostolic constitution *Sacram unctionem infirmorum* which, in addition to approving the revised sacramental rite, prescribed a new sacramental form and reduced the number of anointings to be administered.¹³²

¹³⁰ The *Ordo unctionis infirmorum* makes explicit provision for adaptations by the conferences of bishops (nn. 38-39). The English-language ritual contains a notable rearrangement of material and the addition of several optional texts and formulas. See *Pastoral Care of the Sick: Rites of Anointing and Viaticum*, Washington, DC, International Commission on English in the Liturgy, 1982.

¹³¹ See HUELS, "Reconciling the Old with the New," p. 105, footnote 27.

¹³² The permission to increase the number of anointings, as *Summorum Pontificum* implies, was already envisioned in the revised *Ordo unctionis infirmorum* itself: "Depending on the culture and traditions of different peoples, the number of anointings and the place of the anointing may be changed or increased. Provision for this should be made in the preparation of particular rituals" (n. 24).

2.8 – Reform of the *Pontificale Romanum*

While *Summorum Pontificum* explicitly permits use of the 1962 *Pontificale Romanum* only for the sacrament of confirmation, it should be noted that, on a practical level, it will be employed more frequently and for various other occasions. For example, should a bishop celebrate the sacrament of baptism or preside over a wedding, the appropriate rubrics are contained in the *Pontificale Romanum*. Similarly, some groups attached to earlier liturgical reforms, such as the Priestly Fraternity of St. Peter, have received indulgences to confer the minor orders and sacred orders according to the earlier liturgical rites. Clearly, the earlier *Pontificale Romanum* would be used in such instances. Since *Summorum Pontificum* explicitly permits the *Pontificale Romanum* to be used only for the sacrament of confirmation, we will restrict ourselves to this sacrament. Recourse to the *Pontificale Romanum* in other instances will be explored in chapter V.

Sacrosanctum concilium devoted one article to the sacrament of confirmation, requesting that the rite be revised “in order that the intimate connection of this sacrament with the whole of Christian initiation may stand out more clearly; for this reason it is fitting for candidates to renew their baptismal promises just before they are confirmed.” Furthermore, “Confirmation may be conferred within Mass when convenient; as for the rite outside Mass, a formulary is to be composed for use as an introduction” (*SC*, n. 71).

In accordance with the wishes of the Council, the rite of confirmation was revised and duly promulgated by the Sacred Congregation for Divine Worship on 22 August 1971.¹³³

The *Ordo Confirmationis* is comprised of seven chapters, including the rite of confirmation

¹³³ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica* of the new rite of confirmation *Pecuhare Spiritus Sancti donum*, 22 August 1971, in *AAS*, 64 (1972), p. 77, English translation in *DOL*, n. 304, p. 771, *Ordo Confirmationis*, 22 August 1971, Typis Polyglottis Vaticanis, 1973. For helpful commentaries on the new *Ordo Confirmationis*, see U. BETTI, “Confirmatione Sigillo dello Spirito,” in *Notitiae*, 7 (1971), pp. 347-351; B. KLEINHEYER, “Le nouveau rituel de la confirmation,” in *La Maison-Dieu*, 110 (1972), pp. 51-71; G. PASQUALETTI, “De instauratione ordinis confirmationis,” in *Notitiae*, 7 (1971), pp. 352-363; B. BOTTE, “Problemes de la confirmation,” in *Questions liturgiques*, 53 (1972), pp. 3-10.

inside Mass (chapter I), the rite outside Mass (chapter II), the rite celebrated by an extraordinary minister (chapter III), and the rite celebrated in danger of death (chapter IV). The last chapter contains a selection of prayers and scripture readings for optional use during the celebration of confirmation. In whichever manner the sacrament is celebrated, the structure remains the same with only slight variations, principally consisting of the Liturgy of the Word, a homily, the renewal of baptismal promises, the laying on of hands, anointing with chrism, general intercessions, and a solemn blessing to conclude.

Prior to the promulgation of the revised rite, Paul VI issued an apostolic constitution which, among other things, resolved the essential matter and form of the sacrament:

As regards the words pronounced in confirmation, we have examined with the consideration it deserves the dignity of the respected formulary used in the Latin Church, but we judge preferable the very ancient formulary belonging to the Byzantine Rite. This expresses the Gift of the Holy Spirit himself and calls to mind the outpouring of the Spirit on the day of Pentecost (see Acts 2:1-4, 38). We therefore adopt this formulary, rendering it almost word for word.

Therefore, in order that the revision of the rite of confirmation may, as is fitting, include even the essence of the sacramental rite, by our supreme apostolic authority we decree and lay down that in the Latin Church the following are to be observed for the future.

THE SACRAMENT OF CONFIRMATION IS CONFERRED THROUGH THE ANOINTING WITH CHRISM ON THE FOREHEAD, WHICH IS DONE BY THE LAYING ON OF THE HAND, AND THROUGH THE WORDS: BE SEALED WITH THE GIFT OF THE HOLY SPIRIT («*Accipe signaculum domi Spiritus Sancti*»¹³⁴).

A subsequent authentic interpretation clarified that it was not necessary for the minister, in carrying out the act of anointing with chrism, to lay his outstretched hand on the head of the one being confirmed. Rather, an anointing with the thumb “sufficiently expresses the laying on of hands.”¹³⁵

¹³⁴ PAUL VI, Apostolic constitution approving the new rite of confirmation *Divinae consortium naturae*, 15 August 1971, in *AAS*, 63 (1971), pp. 657-664, English translation in *DOL*, n. 303, pp. 766-770. The previous sacramental form consisted of the following: “N, signo te signo Crucis, et confirmo te Chrismate salutis. In nomine Patris, et Filii, et Spiritus Sancti. Amen.”

¹³⁵ PONTIFICAL COMMISSION FOR THE INTERPRETATION OF THE DECREES OF THE SECOND VATICAN COUNCIL, Authentic interpretation concerning the essential sacramental gesture for confirmation, 9 June 1972, in *AAS*, 64 (1972), p. 526, English translation in *DOL*, n. 306, pp. 776-777. An unsigned commentary on this interpretation is provided in *Notitiae*, 8 (1972), pp. 281-286.

The ordinary minister of confirmation is a bishop (*CIC/17*, c. 782, §1; *CIC/83*, c. 882). Consequently, the rite of confirmation is contained in the *Pontificale Romanum*, that is, a liturgical book containing the rites for the administration of sacraments and sacramentals reserved to bishops. Nevertheless, the 1917 Code of Canon Law also acknowledged that a priest to whom a faculty has been granted, either by law or delegation by the Apostolic See, are extraordinary ministers of the sacrament of confirmation (*CIC/17*, c. 782, §2). An instruction of the Sacred Congregation of the Sacraments provided further norms and the liturgical rite to be observed for the administration of the sacrament by a priest in virtue of delegation by the Holy See.¹³⁶ An additional decree of the same congregation provided norms and the rite to be observed for the confirmation of persons in danger of death.¹³⁷ These provisions were incorporated into the latest pre-conciliar edition of the *Rituale Romanum*.

Celebration of the sacrament of Confirmation according to the earlier *Pontificale Romanum* raises two important issues: (1) the age at which confirmation is conferred and (2) the sacramental form to be employed. To address the first issue, we note that determining the appropriate age for confirmation has resulted in divergent pastoral practices, both before and after the Second Vatican Council. The cause for this is two competing theological emphases: one which emphasizes confirmation as the completion of baptism and the other

¹³⁶ SACRED CONGREGATION OF THE SACRAMENTS, Instruction on the administration of confirmation by a priest, 20 May 1934, in *AAS*, 27 (1935), pp. 11-22, English translation in *CLD*, 2, pp. 185-188. For a commentary on this instruction, see C. ZERBA, "Animadversiones," in *Apollinaris*, 8 (1935), pp. 41-46

¹³⁷ SACRED CONGREGATION OF THE SACRAMENTS, Decree on the administration of confirmation to persons in danger of death *Spiritus Sancti munera*, 14 September 1946, in *AAS*, 38 (1946), pp. 349-358, English translation in *CLD*, 3, pp. 303-311. For a commentary on this decree, see C. ZERBA, *Commentarius in decretum 'Spiritus Sancti munera'*, Vatican City, Libreria editrice Vaticana, 1947; F.M. CAPPELLO, "Annotationes," in *Periodica*, 35 (1946), pp. 380-389; J.D. HANNAN, "Commentary," in *The Jurist*, 7 (1947), pp. 226-233.

which emphasizes confirmation as the sacrament of mature faith and adult development.¹³⁸ The 1917 Code did not prescribe a particular age for confirmation but preferred that the reception of the sacrament be delayed until the seventh year of age (*CIC/17*, c. 788). It was routinely delayed, however, well after the age of seven.¹³⁹ The 1983 Code states the sacrament of confirmation is to be conferred on the faithful at about the age of discretion, “unless the conference of bishops has determined another age, or there is danger of death, or in the judgement of the minister a grave cause suggests otherwise” (*CIC/83*, c. 891). The innovation of the present law is that it permits the conference of bishops to determine an appropriate age for confirmation in their territory or region. Whether confirmation is celebrated according to the revised *Ordo Confirmationis* or the 1962 *Pontificale Romanum*, the norms duly established by the conference of bishops are to be observed.¹⁴⁰

The second issue concerns the proper sacramental form. Clearly when confirmation is celebrated according to the earlier liturgical form, the rite specified in the *Pontificale Romanum* is to be employed, in accordance with provision of *Summorum Pontificum*, art. 9, §2. Independently of the promulgation of the revised *Ordo Confirmationis*, as noted above, Paul

¹³⁸ Seasoltz identifies four disparate theological approaches to the sacrament of confirmation: “(1) confirmation properly marks the entry into Christian maturity or adulthood; (2) confirmation is the beginning, not the culmination, of growth into Christian maturity; (3) confirmation completes the initiation into full membership in the Christian community, independent of the person’s age or maturity; (4) the original order of the sacraments of Christian initiation (baptism, confirmation, Eucharist) should always be regarded as normative and hence restored” (SEASOLTZ, *New Liturgy, New Laws*, p. 53). The age at which confirmation is to be conferred is directly determined, consequently, by the theological approach one chiefly espouses.

¹³⁹ In 1952, for example, a response from the Code Commission determined that a mandate of a local ordinary forbidding the administration of confirmation to children who had not yet reached their tenth year could not be sustained (PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE, Response concerning the age for administering confirmation, 26 March 1952, in *AAS*, 44 [1952], p. 496, English translation in *CLD*, 3, pp. 314-315).

¹⁴⁰ For example, the Canadian Conference of Catholic Bishops legislated as follows: “In accordance with the prescriptions of c. 891, the Canadian Conference of Catholic Bishops hereby decrees that the sacrament of confirmation in the Latin Rite shall be conferred at the age determined in the approved catechetical programmes” (CANADIAN CONFERENCE OF CATHOLIC BISHOPS, Decree specifying the age of confirmation, 24 October 1985, in *Normes complémentaires au Code de Droit Canonique de 1983/Complementary Norms to the 1983 Code of Canon Law*, Ottawa, Canadian Conference of Catholic Bishops, 1996, p. 67).

VI changed the approved sacramental form by means of the apostolic constitution *Divinae consortium naturae*. Is this new sacramental form to be used in the celebration of confirmation according to the earlier *Pontificale Romanum*?

Huels identifies the two principal arguments¹⁴¹. Firstly, it can be argued that the earlier sacramental form cannot be lawfully used. Only the supreme authority of the Church can alter a sacramental formula, both for the Latin and Eastern Churches *sui iuris* (CIC/83, c. 841, CCEO, c. 669). Paul VI did precisely this by means of an apostolic constitution – the most solemn document form used for the most important disciplinary and doctrinal matters. He declared that the revised formula, an ancient form adopted from the Byzantine Rite, was to be used henceforth (*in posterum*), and not just in the revised *Ordo Confirmationis*. Since *Summorum Pontificum*, a document of lesser juridic significance, does not allude to this issue, the legislation of Paul VI remains intact.

On the other hand, one can argue that Benedict XVI implicitly derogated from *Divinae consortium naturae*. *Summorum Pontificum* concluded with a general revoking formula (“anything to the contrary notwithstanding”), implicitly abrogating anything contrary to it. Since *Summorum Pontificum* places no restrictions on the use of the former sacramental form, and since a later law abrogates an earlier law when it is contrary to it (c. 20), the former sacramental form may validly and licitly be used by those who lawfully celebrate confirmation according to the 1962 *Pontificale Romanum*.

Both arguments are convincing and, in the absence of any clarifying response by the Holy See, a doubt of law exists. Consequently, the apostolic constitution *Divinae consortium naturae* is not binding on those who celebrate confirmation using the earlier sacramental rite

¹⁴¹ See HUELS, “Reconciling the Old with the New,” pp. 104-105

(cf. *CIC/83*, c. 14). Either sacramental form may be validly and licitly used in the celebration of confirmation according to the 1962 *Pontificale Romanum*.

2.9 – Reform of the *Breviarium Romanum*

Sacrosanctum concilium dedicated an entire chapter to the reform of the divine office.¹⁴² It begins by recalling that the divine office is “so arranged that the whole course of the day and night is made holy by the praises of God.” The divine office is truly the “voice of a bride addressing her bridegroom; it is the very prayer that Christ himself, together with his Body, addresses to the Father” (*SC*, n. 84). *Sacrosanctum concilium* sought, first and foremost, to restore the traditional sequence of the hours so that they may properly correspond to the hour of the day when they are celebrated (*SC*, nn. 88, 94, 99).

The Council Fathers provided the following norms to guide the reform of the divine office: (1) morning and evening prayer are the “two hinges” on which the daily office turns; they are to be considered the chief hours and celebrated as such; (2) compline or night prayer was to be composed so as to be a suitable prayer for the end of the day; (3) matins, although they should retain the character of nocturnal praise when celebrated in choir, shall be adapted so that it can be celebrated at any hour; they are to be made up of few psalms and longer readings; (4) the hour of prime is to be suppressed;¹⁴³ (5) in choir, the minor daytime hours of terce, sext, and none are to be observed. Outside choir, it will be lawful for those bound to the recitation of the divine office to choose only one of these hours (*SC*, n.

¹⁴² For a comprehensive treatment of the reform of the liturgy of the hours before and during the Second Vatican Council, see C. BRAGA, *La Liturgia delle Ore al Vaticano II*, Rome, Edizioni Liturgiche, 2008. See also S. CAMPBELL, *From Breviary to Liturgy of the Hours: The Structural Reform of the Roman Office, 1964-1971*, Collegeville, MN, Liturgical Press, 1995.

¹⁴³ *Sacram liturgiam*, n. VI, permitted only those not bound by choral recitation to omit the hour of prime. Consequently, numerous requests to omit this hour were made by superiors of religious institutes bound by choral recitation. See BUGNINI, *Reform of the Liturgy*, p. 599. This was favourably conceded by Paul VI on 2 June 1965 (see *Notitiae*, 1 [1965], p. 272, English translation in *DOL*, n. 419, p. 1078).

89). The earlier *Breviarium Romanum* distributed the psalter over a period of one week. *Sacrosanctum concilium* instructed that the distribution of psalms may occur “over some longer period of time” (*SC*, n. 91) and encouraged a richer selection of readings from scripture, works of the Church Fathers, Church Doctors, and other ecclesiastical writers (*SC*, n. 92a-b). Accounts of martyrs and the lives of the saints were to be in accord with known historical facts (*SC*, n. 92c).

Sacrosanctum concilium distinguishes between those obliged to choral office and those clerics not bound to office in choir and specifies the corresponding obligations for each (*SC*, nn. 95-96). Nevertheless, in particular instances and for a just cause, ordinaries may dispense their subjects wholly or in part from the obligation of reciting the divine office or may commute this obligation for some other work (*SC*, n. 97). The laity, too, are encouraged to recite to divine office either with priests, or among themselves, or even individually (*SC*, n. 100).

Perhaps most problematic of all the reforms introduced into the celebration of the divine office was the use of the vernacular. *Sacrosanctum concilium* encouraged, “in accordance with centuries-old tradition,” the retention of the Latin language for clerics reciting the divine office. Ordinaries were permitted to dispense from this requirement in individual circumstances if the use of the Latin language presented significant obstacles for the cleric in question (*SC*, n. 101, §1). Similarly, competent superiors could permit the use of the vernacular in the celebration of the divine office, even in choir, for nuns and members of religious institutes, including women and men who are not clerics. The vernacular version must be one that had been duly approved (*SC*, n. 101, §2). This faculty was extended by *Inter oecumenici* to major superiors of nonexempt, clerical religious institutes and of societies of common life (*IO*, n. 86). *Inter oecumenici* also clarified that

[t]he serious hindrance required for the concession of the faculty mentioned ought to be evaluated on the basis of the physical, moral, intellectual, and spiritual condition of the petitioner. Nevertheless, this faculty, conceded solely to make the recitation of the divine office easier and more devout, is not intended to lessen in any way the obligation of priests in the Latin rite to learn Latin (*IO*, 87).

Following the promulgation of *Sacrosanctum concilium*, numerous requests for greater use of the vernacular in the divine office were made to the Holy See. To curb this trend, an instruction by the Congregation for Sacred Rites and the Sacred Congregation for Religious attempted to provide suitable uniformity through a series of defined norms for various types of religious institutes.¹⁴⁴ Paul VI himself addressed a letter to superiors general of clerical religious institutes bound to choral recitation of the divine office, admonishing them to preserve the use of Latin:

Out of Our good will and high esteem for you we cannot permit something that could be the cause of your own downfall, that could be the source of loss to you, and that surely would afflict the Church of God with sickness and sadness. Even if you are reluctant, allow us to defend your real interests. The Church has introduced the vernacular into the liturgy for pastoral advantage, that is, in favour of those who do not know Latin. The same Church gives you the mandate to safeguard the traditional dignity, beauty, and gravity of the choral office in both its language and its chant.¹⁴⁵

This was to no avail. A few short years later, the Holy See conceded use of vernacular, with an approved translation, in the celebration of the divine office, whether celebrated individually, communally, or chorally, without any further qualifications.¹⁴⁶

In approving the revised book of the liturgy of the hours, Paul VI identifies the purpose of the reform and summarily rehearses the principal changes introduced into the breviary: (1) The liturgy of the hours is a prayer of the whole Church. Consequently, “people

¹⁴⁴ CONGREGATION FOR SACRED RITES and SACRED CONGREGATION FOR RELIGIOUS, Instruction on the language to be used in the recitation of divine office and celebration of Mass among religious *In edicendis normis*, 23 November 1965, in *AAS*, 57 (1965), pp. 1010-1013, English translation in *DOL*, n. 114, pp. 274-277

¹⁴⁵ PAUL VI, Epistle letter to superiors of clerical religious institutes bound to choir, on the celebration of the divine office *Sacrificum laudis*, 15 August 1966, in *Notitiae*, 2 (1966), pp. 252-255, English translation in *DOL*, n. 421, pp. 1080-1081.

¹⁴⁶ SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the Roman Missal, the book of the Liturgy of the Hours, and the Calendar *Instructione de Constitutione*, 14 June 1971, n. 4c, in *AAS*, 63 (1971), p. 714, English translation in *DOL*, n. 216, p. 545

of different callings and circumstances, with their individual needs, were kept in mind and a variety of ways of celebrating the office has been provided.” (2) The liturgy of the hours is a means of sanctifying the entire day and, as such, should correspond to the proper chronological hour. The office of prime was suppressed and morning and evening prayer, the hinges of the entire office, were assigned the most important function. (3) So that the liturgy of the hours may become in reality “a source of devotion and nourishment for personal prayer,” the amount of obligatory daily prayer was considerably reduced, while the variety in texts was notably increased. (4) The weekly psalter was replaced with a distribution of the psalms over a four-week period. Some of the more offensive psalms were omitted, especially because of anticipated difficulties with vernacular translations.¹⁴⁷ The number of Old Testament canticles was increased, and canticles from the New Testament were added to evening prayer to increase the spiritual richness of the office. (5) A new cycle of scriptural readings was included, reflecting the principal stages of salvation history.¹⁴⁸ (6) The readings from the Church Fathers and ecclesiastical writers were revised in accord with the wishes of *Sacrosanctum concilium*.¹⁴⁹ (7) Anything not in harmony with known historical truth was removed, especially readings and biographies of saints of dubious origin.¹⁵⁰ (8) Intercessory

¹⁴⁷ The three so-called “historical” psalms (77, 104, 105) were limited to the seasons of Advent, Christmas, and Lent. Three “imprecatory” psalms (57, 82, and 108) were excluded from the psalter. A number of verses of various psalms were also excluded. See BUGNINI, *Reform of the Liturgy*, p. 511, footnote 29.

¹⁴⁸ Ideally, a two-year cycle of biblical readings for the Office of Readings is to be used, although the *editio typica* of the *Liturgia horarum* and most vernacular translations only include a one-year cycle (GILH, nn. 145-146). A complete list of the readings in the one-year cycle is published in *Notitiae*, 7 (1971), pp. 393-408; 8 (1972), pp. 265-269. The list of the readings for the two-year cycle can be found in *Notitiae*, 12 (1976), pp. 238-248, 324-233, 378-388.

¹⁴⁹ The principles of selection are outlined in “Lectones patristicae et agiographicae breviarii,” in *Notitiae*, 6 (1970), pp. 134-137.

¹⁵⁰ *Sacrosanctum concilium*, n. 93, specified that the hymns of the breviary were “to be restored to their original form” and any “allusion to mythology or anything that conflicts with Christian piety” was to be eliminated. A provisional volume of hymns was published, containing an extensive introduction on the nature and history of hymns and the criteria used in restoring their original form. See *Hymni instaurandi Breviarii Romani*, Vatican City, Libreria editrice Vaticana, 1968. See also A. LENTINI, “Hymni instaurandi Breviarii Romani,” in

prayers were added to the cycle of morning and evening prayer. Furthermore, the Lord's prayer was added to these hours, a return to an early Church practice of reciting this prayer three times daily. The *editio typica* of the Liturgy of the Hours was promulgated on 2 February 1971 and accompanied by a lengthy *institutio generalis*, much like that of the *Missale Romanum*, combining theological reflection with juridic norms governing the celebration of the divine office.¹⁵¹

Summorum Pontificum, art. 9, §3 permits the use of the "Roman breviary promulgated by Blessed John XXIII in 1962."¹⁵² This provision does not present significant difficulties with the present law. Of course, the observance of the earlier calendar will result in discrepancies, particularly for those priests who will be celebrating Mass in both the ordinary and the extraordinary forms. Furthermore, any saints added to the liturgical calendar since 1961 will not be included in the proper of saints. Not only does this ignore the sanctity of countless individuals, recognized solemnly by the Church since the Second Vatican Council, but it also serves to stifle organic development of the liturgy – the very ideal many critics of the liturgical reform affirm as sacrosanct.

Notitiae, 4 (1968), pp. 99-113; *idem*, "Povera critica agli inni della «Liturgia Horarum»," in *Notitiae*, 8 (1972), pp. 19-24. A complete list of the hymns included in the *editio typica* are found in *Notitiae*, 9 (1973), pp. 179-192. For the most part, however, vernacular translations have made use of the generous provisions of the General Instruction of the Liturgy of the Hours, n. 178, which permits the substitution of appropriate vernacular hymns "provided these are in complete harmony with the spirit of the hour, season, or feast" Nevertheless, a revised *Ordo cantus officii* was promulgated in 1983 (*Ordo cantus officii*, editio typica, 25 March 1983, Typis Polyglottis Vaticanis, 1983). This has been reproduced in *Notitiae*, 19 (1983), pp. 359-528.

¹⁵¹ *Liturgia Horarum iuxta Ritum Romanum*, editio typica, 4 vols, 1 November 1970, Typis Polyglottis Vaticanis, 1972. A new *editio typica altera* has been subsequently promulgated on 7 April 1985. For a helpful commentary, see A.-G. MARTIMORT, "L'«Institutio Generalis» et la nouvelle «Liturgia Horarum»," in *Notitiae*, 7 (1971), pp. 218-240; P. JOUNEL, "La Liturgie des Heures dans le renouveau de Vatican II," in *Notitiae*, 10 (1974), pp. 310-320, 334-343; A. AMORE et al. (eds.), *Liturgia delle Ore. Documenti ufficiali e studi*, Quaderni di Rivista Liturgica, n. 14, Torino, Elle di ci, 1972; W.A. JURGENS, *General Instruction on the Liturgy of the Hours*, Collegeville, MN, Liturgical Press, 1975;

¹⁵² John XXIII promulgated a new *editio typica* of the *Breviarium Romanum* in 1961. The *motu proprio* is factually incorrect, presumably confusing this with the promulgation of the *Missale Romanum* which occurred in 1962. Use of this *Breviarium Romanum* is governed by the rubrics contained in the code of rubrics of 1960. See 1.5.1 above.

Priests and deacons aspiring to the presbyterate are obliged to carry out the liturgy of the hours daily. To do so, they must make use of properly approved liturgical books (*CIC/83*, c. 276, §2, 3^o, 1174, §1). Similarly, members of institutes of consecrated life and societies of apostolic life are bound according to the norm of their constitutions (*CIC/83*, c. 1174, §1). With the promulgation of *Summorum Pontificum*, the approved liturgical books which may be used by clerics to fulfill this obligation now include the *Breviarium Romanum* promulgated by John XXIII in 1961, the reformed *Liturgiam Horarum* promulgated by Paul VI, and any subsequently approved vernacular translation of the latter.¹⁵³ Those obliged to pray the liturgy of the hours are to complete its entire course faithfully each day, respecting as far as possible the actual time of day (*CIC/83*, c. 1175). The entire course consists of morning and evening prayer, the two hinges on which the daily office turns and, consequently, the hours which are afforded the greatest honour. The office of readings can be prayed at any time of the day, even on the evening of the previous day after the completion of evening prayer (*GILH*, n. 59). Without prejudice to particular law, it is permitted to choose from the three daytime hours the one most appropriate to the time of day, that is, either mid-morning, midday, or mid-afternoon prayer (*GILH*, n. 77). Night prayer is the last prayer of the day, said before retiring, even if that is after midnight (*GILH*, n. 84). The conferences of bishops are to determine the hours to be observed by permanent deacons (*CIC/83*, c. 276, §2, 3^o). In many instances, this consists of the obligation to observe morning and evening prayer.¹⁵⁴ Those clerics who make use of the *Breviarium*

¹⁵³ This provision raises an interesting question: *Summorum Pontificum*, art. 9, §3 permits *clerics* use of the *Breviarium Romanum* promulgated by John XXIII. May members of institutes of consecrated life or societies of apostolic life *who are not clerics* make use of the earlier breviary to fulfill their obligation according to the norm of their constitutions? This issue will be addressed in chapter IV.

¹⁵⁴ This is the case, for example, in Australia, Canada, England and Wales, Gambia, Liberia, Sierra Leone, India, New Zealand, Nigeria, Scotland, and South Africa. See E. CAPARROS et al. (eds.), *Code of Canon*

Romanum of 1961 have no juridic obligation to observe the hour of prime, although they may do so if they wish.

2.10 – Reform of Sacred Music

The preservation and promotion of the Church’s musical tradition – “a treasure of inestimable value” – occupies an important place in *Sacrosanctum concilium*. In a chapter dedicated to the topic, a characteristic *via media* has been forged between the need to preserve and foster traditional forms of sacred music, such as Gregorian chant, and, on the other hand, alternative forms of sacred music, such as polyphony (*SC*, n. 116) and religious songs representative of the musical traditions in various parts of the world (*SC*, n. 118). Similarly, a balance is struck in terms of the choice of musical instruments. In the Latin Church, the pipe organ “is to be held in high esteem,” but other instruments can also be admitted for use in divine worship provided that they are suitable for sacred use (*SC*, n. 120). *Sacrosanctum concilium* called for great importance to be attached to the teaching and practice of music in seminaries and religious houses of formation (*SC*, n. 115), the formation of properly developed choirs (*SC*, n. 114), and the revision of books of Gregorian chant (*SC*, n. 117).

Much like the *Missale Romanum*, the reform of the official books of chant can be divided into two distinct phases. The first phase consisted of the adaptations introduced both in response to *Sacrosanctum concilium* and to conform to the changes made to the *Missale Romanum* between 1965 and 1969. Three such adaptations were introduced during this period. Firstly, a *Kyriale simplex* was promulgated, as a supplement to the *Kyriale Vaticanum*, in direct response to the request for simpler melodies expressed in *Sacrosanctum concilium* (*SC*, n.

Law Annotated, 2nd ed rev, Montreal, Wilson & Lafleur Limitee, 2004, pp 1649, 1655, 1675, 1648, 1694, 1713, 1726, 1769, 1776

117).¹⁵⁵ The *Kyriale simplex* consisted of a collection of simple Gregorian melodies for the Ordinary of the Mass, many of which were drawn from non-Roman traditions of Latin chant (e.g., Mozarabic, Ambrosian). Marini notes that the publication of the *Kyriale simplex* was delayed due in large part to the initial difficulties between the Congregation for Sacred Rites and the newly-formed Consilium.¹⁵⁶ Secondly, a collection of chants for use with the revised *Ordo Missae* was also issued.¹⁵⁷ Incidentally, this was promulgated on the same day as the *Kyriale simplex*. After the promulgation of *Inter oecumenici*, a number of prayers, formerly said inaudibly by the priest, such as the prayer over gifts and the final doxology, were now to be said or sung aloud. The faithful were also invited to join the celebrant in praying the Lord's prayer. In sung Masses, this was to occur in Latin (*IO*, n. 48). This new collection of chants was required on account of the provisions of *Inter oecumenici* and the new rite of concelebration. It was approved *ad experimentum*, an indication of the provisional nature of this adaptation. Thirdly, the *Graduale simplex* was prepared, again in response to a request expressed in *Sacrosanctum concilium* for an edition of chant containing simpler melodies for use in smaller churches (*SC*, 117).¹⁵⁸ The *Graduale simplex* contains the simpler chants for the Proper of the Mass which may be used in place of the more complex melodies of the *Graduale Romanum*. It was designed especially for those churches where a correct rendition of

¹⁵⁵ CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Kyriale simplex*, *Quum constituto*, 14 December 1964, in *AAS*, 57 (1965), p. 407, English translation in *DOL*, n. 529, p. 1338, *Kyriale Simplex*, editio typica, 14 December 1964, Typis Polyglottis Vaticanis, 1965.

¹⁵⁶ See MARINI, *A Challenging Reform*, pp. 94-97.

¹⁵⁷ CONGREGATION FOR SACRED RITES, Decree promulgating chants for the Roman Missal *Edita instructione*, 14 December 1964, in *AAS*, 57 (1965), p. 408, English translation in *DOL*, n. 531, p. 1339. The chants themselves were published in a book entitled *Cantus qui in Missali Romano desiderantur iuxta instructionem ad executionem constitutionis de sacra liturgia recte ordinandam et iuxta ritum concelebrationis*, 14 December 1964, Typis Polyglottis Vaticanis, 1965.

¹⁵⁸ CONGREGATION FOR SACRED RITES, Decree promulgating the *Graduale simplex*, 3 September 1967, in *Notitiae*, 3 (1967), p. 311, English translation in *DOL*, n. 532, p. 1339; *Graduale simplex in usum minorum ecclesiarum*, 3 September 1967, Typis Polyglottis Vaticanis, 1967.

the more complex chants of the *Graduale Romanum* would prove difficult or impossible. All of these reforms, of course, were to ensure sacred singing and the active participation of the faithful, most especially in sung liturgies.

Although the topic of sacred music was given no comprehensive treatment in either *Inter oecumenus* or *Tres abhinc annos*, a separate instruction was prepared concerning the place of music in the liturgy.¹⁵⁹ In fact, it was presented as a “continuation and complement” to these earlier instructions. It made no pretense to be a complete collection of legislation on sacred music but was presented as “a statement simply of the principal norms that seem most needed at the present time” (*MS*, n. 3). *Muscam sacram*, much like *Sacrosanctum concilium*, emphasizes the importance of the laity fulfilling their liturgical role through “full, conscious, and active participation”¹⁶⁰ In fact, “the very nature of the liturgy demands this and it is the right and duty of the Christian people by reason of their baptism” (*MS*, n. 15). It distinguishes two types of participation. Firstly, participation must be internal, that is, “the faithful make their thoughts match what they say and hear, and cooperate with divine grace” (*MS*, n. 15a). Secondly, participation must also be external, such that the faithful “express their inner participation through their gestures, outward bearing, acclamations, responses, and song” (*MS*, n. 15b). *Muscam sacram* introduces the principle of graduated participation (*gradus participationis*) within the sung Mass, proposed in terms of three degrees and in accord with each congregation’s capacity (*MS*, nn. 28-31) The instruction also attends to the use of sacred music in the divine office (nn. 37-41) and in the celebration of the sacraments and

¹⁵⁹ CONGREGATION FOR SACRED RITES, Instruction on music in the liturgy *Muscam sacram*, 5 March 1967, in *AAS*, 60 (1967), pp 87-105, English translation in *DOL*, n 508, pp 1293-1306 A commentary and extensive bibliography for *Muscam sacram* can be found in A RUFF, *Sacred Music and Liturgical Reform Treasures and Transformations*, Chicago, Hillenbrand Books, 2007, pp 341-357 For a detailed account of the preparation of *Muscam sacram* and an examination of its contents, see BUGNINI, *The Reform of the Liturgy*, pp 898-914

¹⁶⁰ Active participation of the people is repeatedly emphasized in *Muscam sacram* (see nn 2, 5, 9 10, 15 16, 18-21, 28, 33-34, 47, 53, 58, 64, 67)

sacramentals (nn. 42-46), the language for use in sung liturgies (nn. 47-53), the composition of musical settings for vernacular texts (nn. 54-61), instrumental music (nn. 62-67), and the formation of diocesan music commissions (nn. 68-69).

One of the more controversial paragraphs contained in the instruction concerns the use of vernacular hymns. *Musicam sacram*, n. 32, states:

In some places there is the lawful practice, occasionally confirmed by indult, of substituting other songs for the entrance, offertory, and communion chants in the *Graduale*. At the discretion of the competent territorial authority this practice may be kept, on condition that the songs substituted fit in with those parts of the Mass, the feast, or the liturgical season. The texts of such songs must also have the approval of the same territorial authority.

This was an extraordinarily generous concession and, with the consent of conferences of bishops, led to the near ubiquitous adoption of vernacular hymns in place of the designated chants contained in either the *Graduale Romanum* or *Graduale simplex*.¹⁶¹ This is, consequently, one of the principal objections raised by those critical of the liturgical reform.

Musicam sacram remains the only major juridical text issued by the Holy See on music after the Second Vatican Council. Most of its juridic norms have nonetheless been abrogated or derogated by later legislation.¹⁶² Foley evaluates the usefulness of *Musicam sacram* for the liturgy today and argues that it “carries much more juridic weight” in celebrations of the Eucharist according to the 1962 *Missale Romanum*.¹⁶³ This point requires qualification. While it is clear that this instruction can be helpful in such celebrations, especially to promote active participation in sung liturgies, it should be recalled that *Musicam sacram* was

¹⁶¹ See the *General Instruction of the Roman Missal*, 20 April 2000, *Typis Vaticanis*, 2002, nn. 48, 74, 87. The duly approved adaptations for the USA explicitly identify options for use of “a suitable liturgical song similarly approved by the Conference of Bishops or diocesan Bishops” in place of the entrance, offertory, and communion chants.

¹⁶² “To that end, I would suggest that *Musicam sacram* continues to provide direction and inspiration for the musical reform of Roman Catholic liturgy, especially to the extent that it reinforces and elaborates upon the fundamental principles of sung worship imbedded in *Sacrosanctum concilium*. I would further contend that these principles are revealed more in the theological and doctrinal statements of *Musicam sacram* and less in the juridic statements, many of which have been revoked by subsequent rites and liturgical laws” (E. FOLEY, “*Musicam sacram* revisited: Anchor to the Past or Path to the Future?,” in *Studia canonica*, 42 [2008], p. 136).

¹⁶³ *Ibid.*, p. 139.

promulgated largely as a commentary on the modified version of the 1962 *Missale Romanum*, that is, it incorporated the changes introduced into the *Ordo Missae* by means of *Inter oecumenici* and *Tres abhinc annos*. These provisional modifications need not be observed in accordance with *Summorum Pontificum*. Accordingly, *Musica sacra* is useful inasmuch as it reinforces enduring principles of sacred music. Its juridic provisions, however, much like *Inter oecumenici* and *Tres abhinc annos*, do not strictly bind those celebrating Mass according to the 1962 *Missale Romanum*.

The second phase in the reform of books of Gregorian chant begins with the promulgation of the revised *Missale Romanum* in 1969. The accompanying *General Instruction of the Roman Missal* affirmed that the faithful should know at least some parts of the Ordinary of the Mass in Latin, especially the profession of faith and the Lord's Prayer, set to simple melodies.¹⁶⁴ Firstly, as a consequence of changes made to the *Calendarium Romanum*, the *Ordo Lectionum Missae*, and the *Missale Romanum*, further adaptations were required in the *Graduale Romanum*. These new arrangements were incorporated into a new volume entitled the *Ordo cantus Missae*.¹⁶⁵ This volume does not contain many chant texts or musical arrangements but merely provides directives and indicates the proper distribution of chants for each Sunday of

¹⁶⁴ See *General Instruction of the Roman Missal*, 4th edition, 27 March 1975, Typis Polyglottis Vaticanis, 1975, n. 19. There is a notable difference between the 1975 and 2000 edition of the *GIRM*. The 2000 *GIRM* contains an additional paragraph: "All other things being equal, Gregorian chant holds pride of place because it is proper to the Roman Liturgy. Other types of sacred music, in particular polyphony, are in no way excluded, provided that they correspond to the spirit of the liturgical action and that they foster the participation of the faithful" (n. 41). Although this is largely a paraphrase of *SC*, n. 116, it was not contained in earlier versions of the *GIRM*.

¹⁶⁵ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica* of the *Ordo Cantus Missae*, *Thesaurum cantus gregoriani*, 24 June 1972, in *AAS*, 65 (1973), p. 274, English translation in *DOL*, n. 534, p. 1343; *Missale Romanum ex decreto Sacrosancti Oecumenici Concilii Vaticani II instauratum auctoritate Pauli Pp. VI promulgatum*, *Ordo Cantus Missae*, editio typica, 24 June 1972, Typis Polyglottis Vaticanis, 1972. An *editio typica altera* was promulgated on 22 November 1986 (see KACZYNSKI, *Enchiridion documentum*, vol. 3, pp. 319-320).

the year in light of the reformed liturgical books.¹⁶⁶ Secondly, to conform to the changes noted above, a new edition of the *Graduale simplex* was prepared, combining into one volume the earlier *Graduale simplex* (1967), the *Kyrie simplex* (1964), and some portions of the *Ordo cantus Missae* (1972).¹⁶⁷ Finally, a small booklet entitled *Iubilate Deo* was prepared, consisting of simpler melodies of prayers that the faithful should know, so as to ensure a sound balance between vernacular singing and Gregorian chant.¹⁶⁸ This principle was expressed in *Sacrosanctum concilium*, n. 54 and by Pope Paul VI on a number of occasions.¹⁶⁹ The booklet supplies all the chants needed for the Ordinary of the Mass along with the responses incorporated into the revised *Missale Romanum*.

Although *Summorum Pontificum* does not explicitly permit use of the corresponding and appropriate books of Gregorian chant, such permission is clearly implicit in the permission to celebrate Mass according to the *Missale Romanum* of 1962, much like the observance of the earlier *Calendarium Romanum*.¹⁷⁰ The continued use of Gregorian chant in celebrations of Mass according to the extraordinary form not only respects the provisions of

¹⁶⁶ Although not an *editio typica*, the Abbaye Saint-Pierre de Solesmes published a *Graduale Romanum*, revised in light of the *Ordo cantus Missae* (*Graduale sacrosanctae Romanae Ecclesiae de tempore & de sanctis primum sancti Pii X iussu restitutum & editum, Pauli VI Pontificis Maximi cura nunc recognitum, ad exemplar 'Ordinis cantus Missae' dispositum, & rhythmicis signis a solesmensibus monachis diligenter ornatum*, Solesmes, 1979)

¹⁶⁷ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *Graduale simplex*, *Cantus facihores*, 22 November 1974, in *Notitiae*, 11 (1975), p. 292, English translation in *DOL*, n. 536, p. 1348; *Graduale simplex in usum minorum ecclesiarum*, editio typica altera, 22 November 1974, Typis Polyglottis Vaticanis, 1974.

¹⁶⁸ *Idem*, Letter accompanying the booklet *Iubilate Deo*, *Voluntati obsequens*, 14 April 1974, in *Notitiae*, 10 (1974), pp. 123-126, English translation in *DOL*, n. 523, pp. 1327-1329; *Iubilate Deo. Cantus gregoriani facihores quos fideles discant oportet ad mentem Constitutionis Concilii Vaticani II de sacra Liturgia*, 11 April 1974, Typis Polyglottis Vaticanis, 1974. An *editio typica altera* was published on 22 November 1986 (see *Notitiae*, 23 [1987], p. 1029).

¹⁶⁹ See PAUL VI, Address to an audience for choir members on the occasion of the tenth anniversary of the *Consociatio Internationalis Musicae Sacrae*, 12 October 1973, in *DOL*, n. 522, pp. 1326-1327, SECRETARIAT OF STATE, Letter to Cardinal G. Siri, Archbishop of Genoa, on the occasion of a national meeting on sacred music, September 1973, in *DOL*, n. 521, pp. 1325-1326.

¹⁷⁰ The following edition, which includes the changes made to the Order of Holy Week in 1955 (see 1.4.2.1), can be satisfactorily used with the 1962 Roman Missal: *Graduale sacrosanctae Romanae Ecclesiae de tempore et de sanctis SS. D. N. Pii X Pontificis Maximi iussu restitutum et editum ad exemplar editionis typicae concinnatum et rhythmicis signis a solesmensibus monachis diligenter ornatum*, Paris, Desclée & Sotii, 1961.

Sacrosanctum concilium, it may also serve to encourage the adoption of similar practices in Masses celebrated according to the ordinary form.¹⁷¹ In promulgating *Summorum Pontificum*, Benedict XVI expressed a desire that the two forms may be “mutually enriching.” Although it is not entirely clear how this will be juridically achieved, surely the promotion and adoption of Gregorian chant – “a treasure of inestimable value” (*SC*, n. 112) – is one such instance.

2.11 – Sacred Furnishings

In addition to prescribing a reform of the principal liturgical books of the Roman rite, *Sacrosanctum concilium* also attends to sacred art and furnishings in light of the promotion of the active participation of the faithful, “the aim to be considered before all else” (*SC*, n. 14). The “preeminent manifestation of the Church is present in the full, active participation of all God’s holy people,” especially “in the same Eucharist, in a single prayer, at one altar at which the bishop presides surrounded by his college of priests and by his ministers” (*SC*, n. 41). The arrangement of the liturgical environment and the appropriate use of sacred art and furnishings are of great importance. *Sacrosanctum concilium* refrains from providing detailed norms on the design and adornment of Church buildings. This is due, in large measure, to the fact that the Church has never adopted any particular style of art but in the course of history has admitted styles from every period (*SC*, n. 123).

Sacrosanctum concilium provides broad guidelines concerning sacred art and sacred furnishings. Regarding itself as the “rightful arbiter of the arts,” it remains the Church’s task to determine which works of artists are “in accordance with faith, with reverence, and with

¹⁷¹ The use of Gregorian chant was most recently encouraged in Benedict XVI’s post-synodal apostolic exhortation *Sacramentum caritatis*, n. 42 “Finally, while respecting various styles and different and highly praiseworthy traditions, I desire, in accordance with the request advanced by the synod fathers, that Gregorian chant be suitably esteemed and employed as the chant proper to the Roman liturgy” (BENEDICT XVI, Post-synodal apostolic exhortation *Sacramentum caritatis*, 22 February 2007, Libreria editrice Vaticana, 2007, English translation in *Origins*, 36 (2006-2007), p. 642)

honored traditional law and are thereby suited for sacred use” (SC, n. 122). Similarly, sacred furnishings are to worthily and beautifully serve the dignity of worship. Yet “noble beauty,” rather than “sumptuous display” is preferred (SC, 124). *Sacrosanctum concilium* called explicitly for a revision of the canons and statutes regulating the use of material things in sacred worship. It states:

This applies in particular to the worthy and well-planned construction of places of worship, the design and construction of altars, the nobility, placement, and security of the Eucharistic tabernacle, the practicality and dignity of the baptistery, the appropriate arrangement of sacred images and church decorations and appointments. Laws that seem less suited to the reformed liturgy are to be brought into harmony with it or else abolished; laws that are helpful are to be retained if already in use or introduced where they are lacking (n. 128).

Conferences of bishops are also empowered to make adaptations to the needs and customs of their different regions, especially concerning the material and design of sacred furnishings and vestments (SC, n. 128).

In light of *Summorum Pontificum*, and the celebration of Mass according to the 1962 *Missale Romanum*, the arrangement and use of sacred furnishings may present several difficulties. These difficulties chiefly consist of the arrangement of the sanctuary, including the placement of the altar, the presider’s chair, the ambo and the tabernacle, as well as the use of a communion rail to separate the sanctuary from the nave. The selection and appropriate use of various liturgical accompaniments are also considered below.¹⁷²

2.11.1 – The Altar

The 1917 Code of Canon Law, much like its 1983 successor, permits great freedom in the design of an altar, provided its essential features are preserved. The notable differences between the construction of fixed altars before and after the Council lie not so much in the essential features – the altar table (*mensa* or *tabula*), the support (*stipites* or *tituli*), and the sepulcher containing relics of a saint – but the altar accompaniments or the lack thereof.

¹⁷² For a helpful overview of the present law, see M.G. BOYER, *The Liturgical Environment: What the Documents Say*, 2nd ed., Collegeville, MN, Liturgical Press, 2004.

Although not prescribed by law, gradines, that is, step-like structures or shelves at the back of the table of an altar, were often added for both decorative and practical purposes. The prescribed candles and crucifix were often placed on this structure rather than on the altar table itself.¹⁷³ Furthermore, between the altar and the apse of the Church, an ornamental background was frequently constructed. This could consist of (1) a painting or sculpture, known as an *altar-piece*; (2) a hanging fabric, called a *dossal*, such as a tapestry embroidered with sacred images or symbols; or (3) a large structure erected against the wall or separate from it, built with the same material as the altar and often forming a part of the altar itself. This structure, known as a *reredos*, was often richly ornamented, carved, and frequently contained statues. Although these additional adornments were not prescribed by law, they were tolerated, insofar as they did not interfere with the essential structure or purpose of the altar.¹⁷⁴

On the other hand, some altar adornments and furnishings were prescribed by law. First among these was the tabernacle. The 1917 Code required the placement of an immovable tabernacle in the centre part of the altar (*CIC/17*, c. 1269, §1). The tabernacle was to be well-constructed, closed on all sides, and decently decorated according to the norms of liturgical law (*CIC/17*, c. 1269, §2). The tabernacle was to be entirely covered with a veil or a *conopaeum*.¹⁷⁵ Liturgical law also prescribed that the altar was to be surmounted by a canopy, most especially for the high altar of a cathedral, and over every altar at which the

¹⁷³ Although gradines were frequently employed, O'Connell argues that they are undesirable for: "(1) it often spoils the proportions of the altar, introducing a horizontal line into its composition which disturbs its harmony; (2) it distracts from the dignity and purpose of an altar, which is a stone of sacrifice, not an ecclesiastical dumb-waiter; (3) it encourages the overloading of the altar with unnecessary candles-sticks and flower vases" (J. B. O'CONNELL, *Church Building and Furnishings*, London, Burns & Oates, 1955, pp. 174-175 [=O'CONNELL, *Church Building and Furnishings*]). It should also be recalled that the law presupposed the placement of the cross and candles on the altar, rather than on an additional structure (*Caeremoniale Episcoporum*, I, xii, 11).

¹⁷⁴ For more information, see O'CONNELL, *Church Building and Furnishings*, pp. 175-177.

¹⁷⁵ *Rituale Romanum*, V, 1, 7.

Blessed Sacrament is reserved.¹⁷⁶ In some instances, the canopy (*baldachinum, umbraculum*) consisted of an edifice of stone or wood constructed with four or more pillars and a roof. These are often elaborate and decorative structures, Bernini's *baldacchino* over the main altar of St. Peter's Basilica in Rome constituting the most famous examples of this type of structure. More frequently, especially in modest church buildings, the canopy was a much smaller and simpler structure, usually hung over the altar, suspended from the roof of the church or attached to the wall or *reredos*. Finally, an altar frontal (*pallium, palla, paramentum, frontale, antependium*), generally a piece of textile, was to adorn the entire front of the altar.¹⁷⁷ The altar frontal could be easily changed, so as to match the colour and design of the sacred ministers' vestments, or the liturgical colour prescribed for the day.

The altar itself was to be adorned with candlesticks and a crucifix. In fact, it was considered a defect to celebrate Mass with candles not made of wax.¹⁷⁸ The rubrics promulgated by John XXIII to preface the 1962 *editio typica* of the *Missale Romanum* provided for the following norm:

On the altar, at the middle, there must be a cross of adequate size with the image of the crucified, and on each side of it candlesticks with lighted candles, to the number required by the kind of Mass. The so-called 'tables of secret prayers' or altar cards are to be put on the altar also, but only for the time of the Mass; and, at the epistle side, a cushion or a lectern for supporting the missal (n 527).

On altars where solemn Mass and other liturgical functions take place, that is, the principal altar of a church, six candlesticks were required, three on either side of the altar cross.¹⁷⁹ Two

¹⁷⁶ *Caeremoniale Episcoporum*, I, cap. xii, 13; I, xiii, 3; I xiv, 1.

¹⁷⁷ *Ibid.*, I, xii, 11, 16, I, xxix, 4; II, xi, 1.

¹⁷⁸ *De defectibus in celebratione Missae occurrentibus*, X, 1.

¹⁷⁹ *Caeremoniale Episcoporum*, I, xii, 11.

candlesticks sufficed on altars at which low Mass was celebrated¹⁸⁰ A seventh candle was to be added at certain Masses celebrated by the diocesan bishop; this candle stood in line with the six candlesticks, and with the altar cross set it front of it.¹⁸¹ Three altar cloths, duly blessed, were also required. At least one cloth must have been long enough to hang to the ground at the sides of the altar (n. 526). If omitted, this too, constituted a defect of the Mass.

The present law requires at least one white cloth. Its shape, size, and decoration are to be in keeping with the altar's design (*GIRM*, n. 304). Similarly, candles are required at every liturgical service and are to be appropriately placed on or around the altar in a suitable arrangement; they may not interfere with the faithful's clear view of what takes place at the altar or what is placed on it (*GIRM*, n. 307). The prescribed number of candles resembles that of the earlier law. At least two candles are to be used in any celebration, but four or even six candles can be used, especially for Sunday Mass or a holy day of obligation. If a diocesan bishop celebrates, then seven candles are to be used. Furthermore, on or close to the altar, there is to be a cross with a figure of Christ crucified (*GIRM*, n. 117).

The *Rite of Dedication of a Church and Altar*, in chapter IV, acknowledges that an altar is both a table of sacrifice "on which the sacrifice of the cross is perpetuated in mystery throughout the ages until Christ comes again and a table of the paschal banquet at which the Church's children gather to give thanks to God and receive the body and blood of Christ (*OD*, n. 4).¹⁸² It is desirable that in every church there be a fixed altar, constructed so as to be

¹⁸⁰ Although not specified in the rubrics prefacing the 1962 *editio typica* of the *Missale Romanum*, this norm appeared in earlier editions of the *rubricae generales* of the Missal (§ XX). For further details, see O'CONNELL, *Church Building and Furnishings*, p. 204, MCMANUS, *Handbooks for the New Rubrics*, p. 199, A FORTESCUE and J B O'CONNELL, *The Ceremonies of the Roman Rite Described*, 10th rev. ed., Westminster, MD, Newman Press, 1958, pp. 28-29.

¹⁸¹ *Caeremoniale Episcoporum*, I, xii, 12.

¹⁸² *Ordo dedicationis Ecclesiae et altaris*, 29 May 1977, in *Notitiae*, 13 (1977), pp. 364-365, English translation in *DOL*, n. 547, pp. 1369-1387.

attached to the floor (*OD*, n. 6). In new churches, it is better to erect only one altar “so that in the assembly of the people of God the single altar signifies the one Savior Jesus Christ and the one Eucharist of the Church.”¹⁸³ Additional altars may be erected elsewhere in the Church, such as where the tabernacle is situated; nevertheless “the merely decorative erection of several altars in a church must be entirely avoided (*OD*, n.7).

Perhaps the most notable and contested reform following the Second Vatican Council was the erection of freestanding altars so as to permit the celebration of Mass facing the people. Although *Sacrosanctum concilium* is silent on this issue, *Inter oecumenici* advises that the “main altar should preferably be free standing to permit walking around it and celebration facing the people” (*IO*, n. 91). It should be noted that this was not interpreted as a strict obligation by the Consilium, although it was encouraged and almost universally adopted:

The altar *versus populum*, certainly makes for a celebration of the Eucharist which is truer and more communal; it also makes participation easier. Here too, however, prudence should be our guide. Above all because for a living and participated liturgy, it is not indispensable that the altar should be *versus populum*: in the Mass, the entire liturgy of the word is celebrated at the chair, ambo or lectern, and, therefore, facing the assembly; as to the Eucharistic liturgy, loudspeaker systems make participation feasible enough. Secondly, hard thought should be given to the artistic and architectural question, this element in many places being protected by rigorous civil laws. It should not be forgotten that many other factors, on the part of the celebrant and on the part of the ministers and surroundings, are required to make the celebration genuinely worthy and meaningful.¹⁸⁴

It should come as no surprise, then, that when asked whether the present *General Instruction of the Roman Missal*, n. 299 excluded the position *ad orientem* during the Eucharistic

¹⁸³ Aware that Churches were being renovated in haste, measures that were often “in poor taste, illogical, and artificial,” the Consilium encouraged a gradual implementation “that take all values into account” Portable altars could be used in the interim. See CONSILIUM, Letter of Cardinal G. Lercaro, president of the Consilium, to presidents of episcopal conferences on furthering liturgical reform *Le renouveau liturgique*, 30 June 1965, in *Notitiae*, 1 (1965), pp. 257-264, English translation in *DOL*, n. 31, pp. 117-122. See also SACRED CONGREGATION OF THE CLERGY, Circular letter on the care of the Church’s historical and artistic heritage *Opera artis*, 11 April 1971, in *AAS*, 63 (1971), pp. 315-317, English translation in *DOL*, n. 541, pp. 1358-1360.

¹⁸⁴ CONSILIUM, Letter of Cardinal G. Lercaro, president of the Consilium to presidents of conferences of bishops, on the problems in the reform of the liturgy, 25 January 1966, in *Notitiae*, 2 (1966), pp. 157-161, English translation in *DOL*, n. 32, p. 124.

liturgy, the Congregation for Divine Worship and the Discipline of the Sacraments replied

“*Negative et ad mentem*.”¹⁸⁵

Above all one must recall that the word *expedient* does not constitute an obligatory norm, but a suggestion which refers either to the construction of the altar *separate from the wall*, or to celebration facing the people. The phrase *where possible* refers to different elements, such as, for example, the layout of the place, the availability of space, the existence of a previous altar of artistic value, the sensibility of the community which participates in the celebrations in the Church in question, etc. One confirms that the position facing the assembly seems more appropriate in as much as it renders communication easier (cf Editorial in *Notitiae* 29 [1993], 245-249), but without excluding the alternative possibility.¹⁸⁶

The same Congregation, however, confirmed that it is “incorrect and indeed quite unacceptable” to affirm that the celebration of Mass *ad orientem* “is a theologically preferable or more orthodox choice for a priest who wishes to be true to the Church’s authentic tradition.”¹⁸⁷

The tradition of placing relics of martyrs or other saints beneath an altar found legislative expression in the 1917 Code of Canon Law (c. 1198, §4). The revised *Rite of Dedication of an Altar* encouraged the retention of this practice, but provided three important qualifications:

- a. Such relics should be of a size sufficient for them to be recognizable as parts of human bodies. Hence excessively small relics of one or more saints must not be beneath an altar.
- b. The greatest care must be taken to determine whether the relics in question are authentic. It is better for an altar to be dedicated without relics than to have relics of doubtful authenticity placed beneath it.
- c. A reliquary must not be placed on the altar or set into the table of the altar, but placed beneath the table of the altar, as the design of the altar permits.

¹⁸⁵ *GIRM*, n. 299 states: “Altare exstruatur a pariete seunctum, ut facile circumiri et in eo celebratio versus populum peragi possit, quod expedit ubicumque possibile sit. Altare eum autem occupet locum, ut revera centrum sit ad quod totus congregationis fidelium attentio sponte convertatur. De more sit fixum et dedicatum.”

¹⁸⁶ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Reply concerning the celebration of Mass *ad orientem*, 25 September 2000, in *Communicationes*, 32 (2000), pp. 171-173, English translation in *CLSGBI Newsletter*, 126 (2001), p. 47.

¹⁸⁷ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Reply concerning the position of the priest celebrant at Mass, in F.S. PEDONE and J.I. DONLON (eds.), *Roman Replies and CLSA Advisory Opinions 2000*, Washington, DC, Canon Law Society of America, 2000, pp. 33-35.

Specification of the material permitted for use in the construction of an altar is also remarkably less stringent (cf *CIC/17*, c 1198). Presently, in accordance with the custom of the Church, the table of a fixed altar should be made of stone. At the discretion of the conferences of bishops, however, “any becoming, solid, and finely wrought material” may be used in the erection of an altar. These provisions – the *ius vgens* – are to be observed for the construction and renovation of all churches, including those erected as personal parishes for use of the extraordinary form in accord with *Summorum Pontificum*.

2.11.2 – Seating for Sacred Ministers

Prior to the liturgical reform following the Second Vatican Council, the seating for sacred ministers was less prominent. The seat for the celebrant and sacred ministers (*sedile* or *sedilia*) was located on the epistle side of the sanctuary, while the seating for a bishop in a cathedral was located on the Gospel side facing the *sedilia*. The *sedilia* was a movable bench, long enough to accommodate three persons, most notably the priest-celebrant, the deacon, and the subdeacon. It was to contain no divisions, arms and remained uncanopied.¹⁸⁸ The use of domestic armchairs was not permitted.¹⁸⁹

Just as Christ is present in the Eucharistic species, the proclamation of the Word, the sacraments, and the gathered assembly, Christ is also present in the person of the minister (*SC*, n. 7). The chair of the celebrant, therefore, should occupy an important place in the sanctuary. The instruction *Inter oecumenici* states that the chair for the celebrant and ministers should occupy a place that is clearly visible to all the faithful and one that reflects the celebrant’s presidential function over the whole community. If the chair is located behind

¹⁸⁸ *Caeremoniale Episcoporum*, I, vii, 4, I, ix, 1, I, xii, 22, II, ii, 6, II, iii, 4, II, viii, 36, II, xviii, 3, II, xxvii, 13

¹⁸⁹ See O’CONNELL, *Church Building and Furnishings*, p 66

the altar, any semblance of a throne – the prerogative of a bishop – is to be avoided (*IO*, n. 92).

The *General Instruction of the Roman Missal* indicates that the chair of the priest celebrant, who acts *in persona Christi capitis*, must “signify his office of presiding over the gathering and of directing prayer.” The chair should face the people at the centre or head of the sanctuary, unless the design of the building or other circumstances impede this arrangement, such as when a great distance would interfere with effective communication, or if the tabernacle is located in the centre behind the altar. Suitable seating should also be provided in the sanctuary for concelebrants, priests attending in choir, and other ministers. The seat of a deacon should be placed near that of the celebrant, while the seats for other ministers are to be clearly distinguishable from those of the clergy and arranged so that the ministers are easily able to fulfill the functions entrusted to them (*GIRM*, n. 310). Provided reasonable and distinguishable seating is available for the clergy and other ministers, a great deal of discretion can be exercised in accordance with the prescriptions of the law.

2.11.3 – The Ambo

Sacrosanctum concilium recalled that “[t]he treasures of the Bible are to be opened up more lavishly, so that a richer share in God’s word may be provided for the faithful” (*SC*, n. 51). Consequently, at Masses celebrated with a congregation on Sundays and holy days of obligation, the homily is not to be omitted except for a serious reason (*SC*, n. 52). In applying the Constitution on the Liturgy, *Inter oecumenici* specified that in Masses celebrated with a congregation, the lessons, epistle, and gospel were to be read or sung facing the people (*IO*, n. 49), even in the vernacular with the approval of the Holy See (*IO*, n. 57a). *Inter oecumenici* further stipulated that there should be a lectern or lecterns for the proclamation of the readings, so that the faithful may readily see and hear the minister (*IO*, n. 96). This was a

remarkable departure from the previous practice where the readings were proclaimed in Latin and frequently facing the altar.¹⁹⁰ By means of *Sacrosanctum concilium* and subsequent instructions, the ambo has gained both a greater prominence and purpose within the sanctuary.

The *General Instruction of the Roman Missal*, n. 310, indicates that the dignity of the Word of God requires that the church have a place that is suitable for the proclamation of the word and toward which the attention of the whole congregation of the faithful naturally turns during the Liturgy of the Word. Its location will depend on the design of the church, but generally it should be stationary and located so that the sacred ministers and lectors may be clearly seen and heard by the faithful. From the ambo, the readings, the responsorial Psalm, and the Easter Proclamation (*Exsultet*) are to be proclaimed; it may also be used for the homily and announcing the intentions of the Prayer of the Faithful. In general, a portable or movable lectern is not to be blessed. If, however, the architecture of a particular church requires a movable ambo, it may be blessed, provided it is truly becoming, worthy of its function, and designed with beauty.¹⁹¹ While *Summorum Pontificum*, n. 6, permits the proclamation of the readings in the vernacular for Masses celebrated with a congregation, it does not specify in which direction the readings are to be proclaimed.

¹⁹⁰ See, for example, *Ritus servandus in celebratione Missae*, VI, 4-5; *Caeremoniale Episcoporum*, II, VIII, 44. Jungmann provides the following assessment of this arrangement: "As far as the people are concerned, the readings have, during the past thousand years, become a mere symbol. The subdeacon who reads the Epistle stands at his accustomed place, facing the altar and therefore with his back to the people. The deacon who sings the Gospel, should indeed turn *contra altare versus populum*, but the latter direction, *versus populum*, seems to be countermanded by the first, *contra altare*. So, for a practical suggestion as to the position to be taken by the deacon, the rubric from the pontifical Mass is usually given, since it is plainer: the deacon turns in that direction which corresponds to the north side of an oriented church" (J.A. JUNGSMANN, *The Mass of the Roman Rite: Its Origins and Development*, trans. F.A. BRUNNER, New York, Benzinger Brothers, 1951, vol. 1, p. 412)

¹⁹¹ See *Ordo Benedictonis occasione data auspicandi novum ambonem*, nn. 900-901, in *De Benedictionibus*, editio typica, 31 May 1984, Typis Polyglottis Vaticanis, 1985, p. 345.

2.11.4 – Placement of Tabernacle

Both the 1917 and 1983 Codes prescribe that the Blessed Sacrament is to be reserved habitually at only one *altar* (CIC/17, c. 1268, §1) or *tabernacle* (CIC/83, c. 938, §1) in a Church. The 1917 Code prescribed that this was to occur in the most excellent and noble of places of the Church (*in praecellentissimo ac nobilissimo ecclesiae*); ordinarily this would be the principal altar of the Church, although not strictly required (CIC/17, c. 1268, §2). *Inter oecumenici* abrogated a number of prescriptions, contained in both the 1917 Code of Canon Law and a complementary decree of the Congregation for Sacred Rites concerning the placement of the tabernacle.¹⁹² Firstly, whenever a local ordinary approved the reservation of the Eucharist in a place other than an altar in accordance with *Inter oecumenici*, n. 95, the norm of c. 1269, §1, requiring the placement of the tabernacle on an altar, was abrogated. Secondly, the 1957 decree of the Congregation for Sacred Rites required that, at the altar where the Blessed Sacrament was kept, the Mass was to be habitually celebrated (n. 3). Clearly, this norm was also abrogated by means of *Inter oecumenici*, as it permitted the reservation of the Blessed Sacrament in a properly adorned part of the Church other than an altar (*IO*, n. 95). Thirdly, the 1957 decree also stated that “[i]n churches where there is only one altar, this may not be so constructed that the priest celebrates facing the people [...]” (n. 4). As McManus notes, this norm was generally, although incorrectly, interpreted as prohibiting the celebration of Mass *versus populum*.¹⁹³ Nevertheless, *Inter oecumenici* clearly specified that it was lawful to “celebrate Mass facing the people even on an altar where there is a small but becoming tabernacle” (*IO*, n. 95)

¹⁹² CONGREGATION FOR SACRED RITES, Decree concerning the reservation of the Blessed Sacrament and the tabernacle *Sanctissimam Eucharistiam*, 1 June 1957, in *AAS*, 49 (1957), pp. 425-426, English translation in *CLD*, 4, pp. 360-362

¹⁹³ F R MCMANUS, “The New Rite of Mass,” in *Worship*, 39 (1965), pp. 148-149

The 1983 Code specifies that the tabernacle is to be situated in some part of the church or oratory which is distinguished, conspicuous, beautifully decorated and suitable for prayer (*CIC/83*, c. 938, §2). The Blessed Sacrament, however, should not be reserved on an altar where Mass is celebrated (*GIRM*, n. 315). Instead, it is preferable that the tabernacle be located, according to the judgment of the local ordinary,

- a. Either in the sanctuary, apart from the altar of celebration, in a form and place more appropriate, not excluding on an old altar no longer used for celebration;
- b. Or even in some chapel suitable for the faithful's private adoration and prayer and organically connected to the church and readily visible to the Christian faithful.¹⁹⁴

Frequently, where Mass is celebrated according to the extraordinary form, the provisions of the 1917 Code are observed, that is, a tabernacle is affixed to the principal altar of the Church.¹⁹⁵ At this point, it is sufficient to note the incongruity of this practice. As we shall see in chapter IV, a careful distinction is required between the rubrics of the respective forms of the Roman rite and the present disciplinary laws which, among other things, address the placement of the tabernacle and the arrangement of the sanctuary.

2.11.5 – The Communion Rail

Generally, when communion was distributed to the faithful, it was received kneeling at a communion rail which was draped with a white linen, under which the communicants placed their hands. The priest approached each person from the right, accompanied by an

¹⁹⁴ *GIRM*, n. 315 It should be noted that the earlier edition of the *General Instruction of the Roman Missal*, issued to accompany the *editio typica altera* of the *Missale Romanum*, indicated a preference for reservation of the Eucharist in a separate chapel: "Every encouragement should be given to the practice of Eucharistic reservation in a chapel suited to the faithful's private adoration and prayer. If this is impossible because of the structure of the church, the sacrament should be reserved at an altar or elsewhere, in keeping with local custom, and in a part of the church that is worthy and properly adorned" (*General Instruction of the Roman Missal*, 27 March 1975, n. 276). This same preference is expressed in the instruction *Eucharisticum mysterium*, n. 53 (CONGREGATION FOR SACRED RITES, Instruction on the worship of the Eucharist *Eucharisticum mysterium*, 25 May 1967, in *AAS*, 59 [1967], p. 568, English translation in *DOL*, n. 179, pp. 415-416).

¹⁹⁵ Incidentally, the *Rubricae generales* of the 1962 Missal contain no provisions for the placement of the tabernacle. McManus observes that "[n]o attempt has been made to cover the law of sacred furnishings in its entirety, but only to bring up to date the existing norms which have been in the missal at this point all along" (MCMANUS, *Handbook for the New Rubrics*, p. 198).

acolyte, who carried a paten so as to prevent the profanation of the host should it be accidentally dropped.

No official document following the Second Vatican Council explicitly mandated or even suggested that the removal of altar rails was required by the liturgical reform. The reasons for the near ubiquitous removal or abandonment of communion rails are multifaceted, related as they are to the methods adopted for the distribution of communion. Firstly, communion under both species was permitted at appropriate occasions. The restoration of this practice was gradual, and the present law grants a faculty of law to diocesan bishops to permit communion under both species (*GIRM*, n. 283). Evidently, where Communion is distributed under both species and by more than one minister, the communion rail can become an obstacle. Finally, concessions were granted by the Holy See to permit the distribution of communion in the hand rather than on the tongue, as was previously required. Already in 1967, the Congregation for Sacred Rites permitted the reception of communion either kneeling or standing “according to the norms laid down by the conference of bishops and in view of the various circumstances, above all the arrangement of the churches and the number of communicants.”¹⁹⁶ Consequently, the communion rail lost one of its principal functions.

Communion rails also served as a demarcation of space, clearly differentiating the nave from sanctuary. The sanctuary is “the place where the altar stands, where the Word of God is proclaimed, and where the priest, the deacon, and the other ministers exercise their offices (*munera*). It should suitably be marked off from the body of the church either by its being somewhat elevated or by a particular structure and ornamentation” (*GIRM*, n. 295). The continued use of communion rails, for both the ordinary and extraordinary forms of the

¹⁹⁶ CONGREGATION FOR SACRED RITES, Instruction on worship of the Eucharist *Eucharisticum mysterium*, 25 May 1967, n. 34, in *AAS*, 59 (1967), p. 560, English translation in *DOL*, n. 179, p. 410

Mass, present no difficulty with the present *ius vigens*. Communion is generally received standing and in a processional line. Nevertheless, communicants can receive the host either kneeling or standing, depending on the norms established by the conference of bishops (*GIRM*, n. 160). The Code indicates that “sacred ministers cannot deny the sacraments to those who seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them” (*CIC/83*, c. 843, §1). The instruction *Redemptionis sacramentum*, n. 91, recalls that “it is not licit to deny Holy Communion to any of Christ’s faithful solely on the grounds, for example, that the person wishes to receive the Eucharist kneeling or standing.” This applies equally to those who wish to receive communion kneeling at a celebration of Mass according to the ordinary form, as well as to those who wish to receive communion standing at a celebration of Mass according to the extraordinary form.

2.11.6 – Sacred Images and Statues

Sacrosanctum concilium, much like Pius XII’s *Mediator Dei*, sought to provide a proper balance in the use and placement of sacred images in churches. It states:

The practice of placing sacred images in churches so that they may be venerated by the faithful is to be maintained. Nevertheless there is to be restraint regarding their number and prominence so that they do not create confusion among the Christian people or foster religious practices of doubtful orthodoxy (*SC*, n. 125).¹⁹⁷

Nevertheless, changes were not to be made arbitrarily, and proper care of the Church’s historical and artistic heritage was to be maintained. The remodeling of churches by reason of the reform of the liturgy was to be carried out with the utmost caution, after consultation with experts and observing both the directives of the Holy See and the civil laws of various

¹⁹⁷ Compare this with *Mediator Dei*, n. 189: “If we have previously disapproved of the error of those who would wish to outlaw images from churches on the plea of reviving an ancient tradition, we now deem it our duty to censure the inconsiderate zeal of those who propose for veneration in the churches and on altars, without any just reason, a multitude of sacred images and statues, and also those who display unauthorized relics, those who emphasize special and insignificant practices, neglecting the essential and necessary things. They thus bring religion into derision and lessen the dignity of worship” (PIUS XII, Encyclical letter on the sacred liturgy *Mediator Dei*, 20 November 1947, in *AAS*, 39 [1947], p. 588, English translation in SEASOLTZ, *The New Liturgy*, p. 155).

countries. If certain works were judged to be no longer suited to divine worship, they were not to be given over to profane use or destroyed. Rather, they were to be set up in a suitable place, such as a diocesan or interdiocesan museum, and made accessible to the faithful. Precious objects, especially votive offerings, were not to be alienated without permission of the Holy See (*CIC/17*, c. 1532; 2347-2349).¹⁹⁸

The *General Instruction of the Roman Missal*, n. 318, acknowledges the Church's ancient tradition of displaying images of the Lord, the Blessed Virgin Mary, and the saints for veneration of the faithful in sacred buildings (cf. *CIC/83*, c. 1186). Only those officially canonized or beatified (*Sanctorum vel Beatorum*) by the authority of the Church, however, may be publicly venerated (*CIC/83*, c. 1187). The *General Instruction of the Roman Missal* states that such images should be arranged so as to not distract the faithful from the celebration itself. Consequently, the number of sacred images should not be increased indiscriminately and, in general, only one image of any given saint ought to be displayed (cf. *CIC/83*, c. 1188). In new churches, statues and pictures of saints may not be placed above the altar. Likewise, when relics of saints are exposed for veneration, they should not be placed on the table of the altar.¹⁹⁹ Whenever a new sacred image is first exposed for public veneration by the faithful, particularly in a church, there should be a solemn blessing according to the prescribed rite.²⁰⁰

¹⁹⁸ See SACRED CONGREGATION OF THE CLERGY, Circular letter on the care of the Church's historical and artistic heritage *Opera artis*, 11 April 1971, in *AAS*, 63 (1971), pp. 315-317, English translation in *DOL*, n. 541, pp. 1358-1360.

¹⁹⁹ *Ordo dedicationis Ecclesiae et altaris*, 29 May 1977, Ch. IV *Ordo dedicationis altaris*, n. 10, in *Notitiae*, 13 (1977), p. 382, English translation in *DOL*, n. 547, pp. 1380.

²⁰⁰ See *Ordo ad benedicendas imagines quae fidelium venerationi publicae exhibentur*, in *De Benedictionibus*, editio typica, 31 May 1984, *Typis Polyglottis Vaticanis*, 1985, pp. 374-394.

2.11.7 – Liturgical Vestments

In the former rite, the vestments proper to the priest included the amice, the alb, the cincture, the maniple, the stole, and the chasuble. In place of the chasuble, a deacon wore a dalmatic. A subdeacon wore a tunic made in much the same way as the deacon's dalmatic, but less ornate and without a stole.²⁰¹ When vesting for Mass, an appropriate prayer accompanied the placement of each item.²⁰² The biretta, a quadrangular head covering with three peaks and frequently surmounted with a pompon, was also employed, although it has never been listed among the sacred vestments.²⁰³ All of this has been significantly simplified. The use of the maniple – an ornamental vestment worn on the left arm during Mass – was made optional in 1967 by means of the instruction *Tres abhinc annos*, and, with the promulgation of the revised *Missale Romanum*, is now suppressed.²⁰⁴ The recent *General Instruction of the Roman Missal* clearly specifies that the vestment proper to a priest celebrant at Mass is the chasuble, worn over the alb and the stole (*GIRM*, n. 337, cf. n. 119a). The vestment proper to a deacon is the dalmatic, similarly worn over the alb and stole (*GIRM*, n. 338).

The chasuble – the outermost vestment proper to a priest at Mass – has taken on various shapes and sizes throughout history. The “fiddleback” or “Roman” style chasuble was predominant before the liturgical reforms of the Second Vatican Council. Even before the Council, however, requests for use of the more ample “Gothic” form of the chasuble

²⁰¹ *Ritus servandus in celebratione Missae*, I, 3

²⁰² See *Praeparatio ad Missam pro opportunitate sacerdotis facienda*, prefacing the 1962 *Missale Romanum*

²⁰³ See HJ McCLOUD, *Clerical Dress and Insignia of the Roman Catholic Clergy*, Milwaukee, Bruce Pub Co., 1948, p. 61

²⁰⁴ CONGREGATION FOR SACRED RITES, Instruction, *Tres abhinc annos*, 4 May 1967, n. 25, in *AAS*, 59 (1967), p. 447, English translation in *CLD*, 7, p. 137

resulted in a noteworthy concession by the Congregation for Sacred Rites, which had hitherto restricted its use.²⁰⁵ There is presently no restriction on the use of the so-called “fiddleback” chasuble; either form of the chasuble may be employed in Masses celebrated according to both forms of the Roman Rite. The *General Instruction of the Roman Missal* identifies some basic principles for the design and construction of liturgical vestments, permitting, where necessary, local adaptations by conferences of bishops (cf. *GIRM*, nn. 335-347). The beauty and nobility of each vestment should derive from the material and design used rather than “overly lavish ornamentation” (*GIRM*, n. 344).

When liturgical rites are celebrated according to their extraordinary form, their respective rubrics are to be observed. Consequently, use of the biretta and maniple, which are not listed among the vestments proper to clerics in the *General Instruction of the Roman Missal*, are permitted. If they are not available, however, this should not prevent a priest from celebrating Mass or the other sacraments according to the extraordinary form. Their omission no longer constitutes a defect of the Mass. It remains the task of the Congregation for Divine Worship and the Discipline of the Sacraments and the Pontifical Commission *Ecclesia Dei* to ensure that the liturgical laws prefacing the 1962 *Missale Romanum*, most especially the *De defectibus in celebratione Missae*, are updated so as to correspond with the present *ius vigens*.²⁰⁶ If not, it will be hard to justify how “these two expressions of the church’s *lex orandi* will in no way lead to a division in the church’s *lex credendi*. They are in fact two usages of the one Roman rite” (*SP*, n. 1).

²⁰⁵ CONGREGATION FOR SACRED RITES, Declaration permitting use of “Gothic” vestments, 20 August 1957, in *AAS*, 49 (1957), p. 762, English translation in *CLD*, 4, p. 262. An earlier response of the same Congregation, to which this refers, had restricted use of “Gothic” style vestments without permission from the Holy See. See CONGREGATION FOR SACRED RITES, Reply restricting the use of “Gothic” vestments, 9 December 1925, in *AAS*, 18 (1926), p. 58, English translation in *CLD*, 1, p. 374.

²⁰⁶ Huels examines a number of the defects listed in this document and identifies the law by which they are superseded. He notes that in nearly every instance, the current law is less restrictive than the prior law (HUELS, “Reconciling the Old with the New,” pp. 108-112).

Conclusion

The Second Vatican Council anticipated that a renewal of the liturgy would be accomplished, in no small measure, by a reform of the liturgical books themselves. *Sacrosanctum concilium* called explicitly for a reform of the liturgical books (*SC*, n. 25) and a revision of the liturgical laws regulating the material aspects involved in sacred worship (*SC*, n. 128). It did so by providing general norms as well as authorizing various particular reforms, many of which have been identified throughout the chapter. And yet, *Summorum Pontificum* now permits use of liturgical books unaltered by the reforms initiated by *Sacrosanctum concilium* and the subsequent liturgical reform. There is no historical precedent for a provision such as this. Inevitably, the continued use of these books present difficulties, most especially in attempting to reconcile their use and the norms that they contain with the *ius vigen*s – a juridical expression of the Second Vatican Council’s doctrine and ecclesiology.²⁰⁷ These discrepancies have been identified above, along with a tentative resolution.

While the most obvious discrepancy concerns the very use of liturgical books that have not been reformed in accordance with *Sacrosanctum concilium* and at the explicit request of an ecumenical council, broader liturgical principles are at stake. These include (1) the role of the diocesan bishop as moderator of the liturgical life of his diocese; (2) the use of the vernacular and the intelligibility of the sacred rites; (3) the promotion and use of sacred scripture; (4) differentiated liturgical roles, especially for the laity; and, perhaps most important of all (5) the full, conscious and active participation of the faithful. While

²⁰⁷ John Paul II emphasized this point when promulgating the 1983 Code of Canon Law “The instrument which the Code is fully corresponds to the nature of the Church, especially as it is proposed by the teachings of the Second Vatican Council in general and in a particular way by its ecclesiological teaching. Indeed, in a certain sense this new Code could be understood as a great effort to translate this same conciliar doctrine and ecclesiology into *canonical language*” (JOHN PAUL II, Apostolic constitution promulgating the new Code of Canon Law *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75, pars II [1983], p. xi, English translation *Code of Canon Law Latin-English Edition, New English translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 1999, p. xxx)

Summorum Pontificum does not necessarily jeopardize these conciliar principles, it does present a unique challenge and require a re-evaluation of them in light of new ecclesiastical legislation. This, among other things, will be the task of the remaining chapters. We now turn, in the following chapter, to the opposition to the liturgical reform and the provisions for use of the 1962 *Missale Romanum* before those of *Summorum Pontificum*.

CHAPTER III

RESPONSES TO THE LITURGICAL REFORM AND EXCEPTIONS TO THE OBLIGATION TO USE THE REVISED RITES

Introduction

In a relatively short period of time following the promulgation of *Sacrosanctum concilium*, significant reforms were introduced into the entire liturgical institution of the Church. Unlike the minor rubrical adjustments of the past, nearly all the liturgical books were significantly revised and, perhaps most significant of all, vernacular translations were permitted. This, of course, was to ensure that the faithful take part in all liturgical celebrations which, by their very nature, demand the full, conscious, and active participation of the faithful (cf. *SC*, nn. 10, 14). It is not surprising, then, as one observer noted, that “the abundance of liturgical legislation seems to surpass by far any other field of Church law in the post-Conciliar era.”¹

For the most part, these renewed liturgical books and approved vernacular translations were enthusiastically welcomed by bishops, priests and members of the lay faithful.² Benedict XVI recalls in the introduction to *Summorum Pontificum*, however, that “no small numbers of faithful adhered and continue to adhere with great love and affection to the earlier liturgical forms.” Motivated either by sincere attachment to these earlier liturgical rites or opposition to the reforms introduced in the wake of the Second Vatican Council,

¹ F. G. MORRISEY, “Ten Years of Liturgical Legislation (1963-1973),” in *Studia canonica*, 7 (1973), p. 289.

² In order to learn how the liturgical reform was progressing, the *Consilium* surveyed episcopal conferences shortly after 7 March 1965. The replies from various conferences of bishops are reproduced in *Notitiae*, 1 (1965), pp. 109-135, 167-184, 223-249, 282-304. In view of opposition to the liturgical reform, another survey was conducted by the *Consilium* on 15 June 1967. The replies from various conferences of bishops are reproduced in *Notitiae*, 4 (1968), pp. 15-36, 114-128, 185-202, 252-266, 282-306. Although difficulties were indicated, overwhelmingly the responses to the initial reforms were positive.

“fidelity to the old missal became an external mark of identity.”³ Concerned for the pastoral care of these faithful and aware of the dangers posed by a movement led largely by the charismatic Mgr Marcel Lefebvre, the Holy See elected to grant increasingly generous provisions for the use of these earlier liturgical forms.

The first part of this chapter will consider the principal objections to the post-conciliar liturgical reform. The purpose of this endeavour is not to address every conceivable objection – a task far beyond the limits of this study – but to provide a context for understanding the provisions for the continued use of older liturgical books, up to and including the latest provisions of *Summorum Pontificum*. An examination of the principal objections to the liturgical reform will also assist in identifying, in the following chapter, the primary obstacles and unique juridical challenges posed by the latest legislative provision for use of the older liturgical books. Following upon a consideration of the principal objections, the second part of this chapter will discuss the provisions for the continued use of the 1962 *Missale Romanum* and provide an analysis of their precise juridic nature.

3.1 – Principal Reactions to the Post-Conciliar Liturgical Reform

The tenor of critical responses to post-conciliar liturgical reforms occupy a complete spectrum, ranging from outright rejection of the Second Vatican Council and the liturgical reforms which followed to a more cautious, prudent appraisal of the newly promulgated liturgical books. Unfortunately, many who oppose the reform of the liturgy make no distinction between the extreme aberrations that resulted from uncontrolled experimentation by enthusiastic – but terribly misguided – parish priests, liturgists, and lay ministers, and the

³ BENEDICT XVI, Letter to bishops, p 133

genuine attempts to address legitimate pastoral needs in accordance with the directives emanating from the Holy See and various episcopal conferences.⁴

While it is impossible, indeed unnecessary, to evaluate the claims of all those opposed to various aspects of the reformed liturgy, various responses can be adequately categorized.⁵ M. Francis Mannion provides a helpful typology by identifying five operative agendas for liturgical reform: (1) advancing the official reform; (2) restoring the pre-conciliar; (3) reforming the reform; (4) inculturating the reform;⁶ and (5) recatholicising the reform.⁷ Within this schema one can recognize certain ideological preferences. The second and third agenda groups, for instance, “exist on the conservative or traditionalist end of the spectrum

⁴ Benedict XVI observes the following. “Many people who clearly accepted the binding character of the Second Vatican Council and were faithful to the pope and the bishops nonetheless also desired to recover the form of the sacred liturgy that was dear to them. This occurred above all because in many places celebrations were not faithful to the prescriptions of the new missal, but the latter actually was understood as authorizing or even requiring creativity, which frequently led to deformations of the liturgy which were hard to bear. I am speaking from experience, since I too lived through that period with all its hopes and its confusion. And I have seen how arbitrary deformations of the liturgy caused deep pain to individuals totally rooted in the faith of the church” (BENEDICT XVI, Letter to bishops, p. 133).

⁵ Baldwin provides a comprehensive response to a number of critics of the liturgical reform. He classifies the various critiques into four principal categories: philosophical, historical, theological, and sociological/anthropological. See J.F. BALDOVIN, *Reforming the Liturgy: A Response to the Critics*, Collegeville, MN, Liturgical Press, 2008.

⁶ “The fundamental conviction operative in the agenda of ‘inculturating the reform’ is that while the revisions of the past thirty years have more or less successfully given the Church a new set of liturgical books, these achievements are but a prelude to a much more profound and far-reaching reform of the liturgy. An entirely new phase of creativity must be initiated by which the officially revised liturgical rites will be adapted to various cultures of the world, including those of the modern West. This position proposes a new pluralisation, diversification, and decentralisation of the Catholic liturgical life” (M.F. MANNION, “The Catholicity of the Liturgy: Shaping a New Agenda,” in S. CALDECOTT [ed.], *Beyond the Prosaic: Renewing the Liturgical Movement*, Edinburgh, T&T Clark, 1998, p. 21 [=MANNION, “The Catholicity of the Liturgy”]). *Sacrosanctum concilium*, arts. 37-40, provide theoretical legitimacy for this agenda.

⁷ MANNION, “The Catholicity of the Liturgy,” p. 11. Mannion sympathizes with the recatholicising agenda, which he describes as follows: “. . . the recatholicising agenda is primarily committed to a vital recreation of the ethos that has traditionally imbued Catholic liturgy at its best – an ethos of beauty, majesty, spiritual profundity and solemnity [. . .] The recatholicising agenda is also open to what it regards as the positive prescriptions of the ongoing agenda of official reform, for instance, in better translations; yet its primary interest is not with the creation of new texts or translations or with modifications of ritual and expanding options. The recatholicising agenda, unlike the other four, sets no great store on further structural change in Catholic worship at this time – whether in ‘conservative’ or ‘progressive’ directions. The agenda seeks, instead, a period of settling down and intensive pastoral appropriation now that the liturgical books have been thoroughly and systematically revised. In this respect, it embraces a highly conservative view of the dynamics of liturgical change, holding that ritual functions best when it is familiar and predictable” (ibid., p. 27).

of present-day liturgical movements,”⁸ whereas the fourth and fifth agenda groups share in common a fundamental affirmation of the Second Vatican Council, “as well as an acceptance of the reformed rites as they now exist as a basis for any further development.”⁹ Furthermore, while the former two “wish more or less to go back to or behind the Council,” the latter two groups “seek to go beyond the reform as it has been carried through in recent decades, but in rather different ways.”¹⁰ Since these latter two agenda groups propose matters that go well beyond the parameters of the present study, in as much as they do not concern the restoration of earlier liturgical forms, they are excluded from further examination. What follows is an assessment of the first three agendas identified by Mannion for the purpose of providing an appropriate context in which to situate attachment to earlier liturgical forms.

3.1.1 – Advancing the Official Reform

Mannion’s first operative agenda – the official liturgical reform undertaken by the Holy See – is largely the norm around which all other agendas are identified and organized. Doubtless there are characteristics of the official ecclesiastical response that can be identified, and yet it does not seem entirely appropriate to classify the Holy See’s *modus operandi* as an agenda, or at least one remotely comparable to the others identified. After all, it is the prerogative of the Apostolic See to regulate the sacred liturgy for the universal Church, to publish liturgical books and review their vernacular translation, and to be watchful that liturgical regulations are everywhere faithfully observed (*CIC/83*, c. 838, §2). Mannion correctly observes that, because of its official character, “this agenda regards itself with

⁸ *Ibid*, p 15

⁹ *Ibid*, p 21

¹⁰ *Ibid*, p 21

considerable justification as the legitimate executor of the programme for liturgical reform set forth in the Constitution on the Sacred Liturgy.”¹¹ Consequently, it is only in this way that the agenda of the official reform of the liturgy, legitimately undertaken by the Holy See, can be properly understood.

Bugnini, regarded by many as the architect of the official liturgical reform following the Second Vatican Council,¹² outlines a number of guiding principles observed by the *Consilium* in its implementation of *Sacrosanctum concilium*. These principles, drawn from the conciliar constitution itself, include the following: (1) the liturgy as “an exercise of the priestly office of Jesus Christ” (*SC*, n. 7); (2) the liturgy as the “summit and fount” of the Church’s life; (3) the importance of the full, conscious and active participation of the faithful; (4) the liturgy as a manifestation of the Church (*SC*, n. 26); (5) the difference between “substantial unity” and “rigid uniformity” (*SC*, n. 38); and (6) the difference between “sound tradition” and “legitimate progress” (*SC*, n. 23).¹³ Mannion observes, however, that a notable feature of the *Consilium*’s agenda has been its “internally evolutionary character” whereby the *Consilium* regarded its work “as both an elaboration and development of the conciliar Constitution on the Sacred Liturgy.”¹⁴ To help illustrate this point, three examples are considered below at some length. For the purpose of convenience, objections

¹¹ *Ibid*, p. 12.

¹² BALDOVIN, *Reforming the Liturgy*, p. 5.

¹³ BUGNINI, *The Reform of the Liturgy*, pp. 39-45 Mannion provides his own summary of these principles, as follows: “An overriding concern was the renewal of the active participation of the Christian people and the need to re-establish diverse ministerial roles within the worshipping assembly. The operational principles of this agenda included arriving at lucidity of liturgical understanding; recovery of the instructive facility of the liturgy; achieving ‘noble simplicity’, clarity and brevity; and facilitating freedom from useless repetition and the necessity of much explanation. The inspiration and ideal of the official agenda was the early Roman liturgy, the general features of which is sought to uncover and reappropriate in a methodologically scientific and historically critical manner” (MANNION, “The Catholicity of the Liturgy,” p. 14)

¹⁴ MANNION, “The Catholicity of the Liturgy,” p. 14.

to these reforms are identified, although a more careful classification of opposition to the post-conciliar liturgical reform will follow in sections 3.1.2 and 3.1.3.

3.1.1.1 – The Introduction of the Vernacular

Sacrosanctum concilium's introduction of the vernacular was remarkably cautious. It explicitly stated that the use of the Latin language is to be preserved in the Latin rites (*SC*, n. 36, §1). Since it acknowledges that the use of the vernacular “may frequently be of great advantage to the people,” *Sacrosanctum concilium* authorizes the wider use of the vernacular, “especially in readings, directives and in some prayers and chants” (*SC*, n. 36, §2). Specifically, the Constitution on the Sacred Liturgy indicates that the vernacular may be employed in Masses with the people, “especially in the readings and the ‘common prayer,’ and also, as local conditions may warrant, in those parts which pertain to the people [.].” It continues with a cautionary note, warning that “care must be taken to ensure that the faithful may also be able to say or sing together in Latin those parts of the Ordinary of the Mass which pertain to them” (*SC*, n. 54).

Despite this cautionary tone, by 1965 – only two years after the promulgation of *Sacrosanctum concilium* – eighty-seven conferences of bishops had requested approval of texts in the vernacular and translations of 205 different languages had been permitted. In fact, requests were made before an acceptable translation was even prepared, requiring the Holy See to grant to conferences of bishops permission to use already existing translations, such as those used in missalettes to assist the faithful, until such a time when the conferences could present an officially prepared translation.¹⁵ The Consilium's *decretum typicum*, issued in response to requests made by conferences of bishops, permitted the use of the vernacular:

1 In sung or recited Masses that are celebrated with a congregation

¹⁵ BUGNINI, *The Reform of the Liturgy*, p. 102. See also “Le lingue nella liturgia dopo il Concilio Vaticano II,” in *Notitia*, 15 (1979), pp. 385-520.

- a) in the lessons, epistle, and gospel;
- b) in the prayer of the faithful;
- c) in the chants of the Ordinary of the Mass, namely, the *Kyrie, Gloria, Credo, Sanctus-Benedictus*, and *Agnus Dei*,
- d) in the chants of the Proper of the Mass: the *introit, offertory, and communion antiphons* with their psalms, and the chants between the readings;
- e) in the acclamations, greetings, and dialogues,
- f) in the Our Father, as well as in its introduction and in the embolism,
- g) in the formulas for the communion of the faithful,
- h) in the collect, prayer over the gifts, prayer after communion, and prayer “over the people”

2 In the administration of the sacraments and sacramentals.

- a) in the rites of baptism, confirmation, penance, marriage, and anointing of the sick, including the sacramental formulas; and in the distribution of communion outside of Mass;
- b) in the conferring of holy orders: in the address that begins each ordination or consecration; in the examination of the candidate in an episcopal consecration; and in the admonitions;
- c) in the sacramentals;
- d) in funerals.¹⁶

The content of the *decretum typicum* – an admittedly generous authorization – corresponds to the provisions of the instruction *Inter oecumenici* which also instructs that the Missals employed were to contain, in addition to the vernacular version, the Latin text as well (*IO*, n. 57). Although not envisioned in either *Sacrosantum concilium* or *Inter oecumenici*, additional requests were made by conferences of bishops for use of the vernacular in the preface of the Roman Canon. As Bugnini notes, the Consilium was initially opposed to such an authorisation due to the fact that the preface was part of the Roman Canon and because of the “impressive Gregorian melodies” provided for its use.¹⁷ Nevertheless, on 27 April 1965, the Secretariat of State communicated the decision of Paul VI regarding this matter, principally, “that the resolution of this matter be left to the decision of each conference of bishops.”¹⁸ Further permission was granted *ad experimentum* by Paul VI, again at the request of numerous conferences of bishops, for the use of the vernacular in the Canon of the Mass

¹⁶ CONSILIIUM, Normative decree granted to conferences of bishops in response to requests for the use of the vernacular, in *Notitiae*, 1 (1965), p. 9, English translation in BUGNINI, *The Reform of the Liturgy*, pp. 101-102.

¹⁷ BUGNINI, *The Reform of the Liturgy*, p. 104.

¹⁸ SECRETARIAT OF STATE, Letter informing Cardinal Lercaro, President of the Consilium, of Pope Paul VI's concession allowing the preface at Mass to be in the vernacular, 27 April 1965, in *Notitiae*, 1 (1965), p. 149, English translation in *DOL*, n. 110, p. 269.

and in the conferral of holy orders, both of which were hitherto prohibited.¹⁹ Finally, on 14 June 1971, following the promulgation of the revised *Missale Romanum*, the Congregation for Divine Worship sent notification that for Masses with a congregation, conferences of bishops have the right to decide on the use of the vernacular for any part of the Mass and, with the consent of the Ordinary, celebration of the liturgy of the hours, whether individually or communally, could also be in the vernacular.²⁰

Bugnini acknowledges that the provisions for use of the vernacular in the conciliar constitution were given a broad interpretation. He argues that “this interpretation did not spring from a desire to take risks or from an itch for novelty; it was adopted after deliberation, with the approval of competent authority, and in line with the spirit of the conciliar decrees.”²¹ The pervasive use of the vernacular following quickly upon the council, according to Bugnini, is “a classic example of a legitimate postconciliar development.” He continues:

It was a logical consequence of premises laid down by the Council itself. In fact, even if the extension of the vernacular to the entire liturgy can be called broad interpretation (though made by one with the right to make it), it cannot be said to contradict the Constitution on the Sacred Liturgy.²²

¹⁹ PAUL VI, Concession allowing *ad experimentum* use of the vernacular in the canon of the Mass and in ordinations, 31 January 1967, in *Notitiae*, 2 (1967), p. 154, English translation in *DOL*, n. 117, pp. 278-279. Although Paul VI permitted the use of the vernacular in the conferral of holy orders, the essential sacramental form was to remain in Latin, “should this seem advisable to the conferences of bishops.”

²⁰ SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the Roman Missal, the book of the Liturgy of the Hours, and the Calendar *Instructio de Constitutione*, 14 June 1971, n. 4, in *AAS*, 63 (1971), p. 714, English translation in *DOL*, n. 216, p. 545.

²¹ BUGNINI, *The Reform of the Liturgy*, p. 110.

²² BUGNINI, *The Reform of the Liturgy*, p. 110. It must be noted that a tension is evident in *Sacrosanctum concilium* itself. While it permits the use of the vernacular in Mass, especially “in those parts which pertain to the people,” it likewise notes that “care must be taken to ensure that the faithful may also be able to say or sing together in Latin those parts of the Ordinary of the Mass which pertain to them” (*SC*, n. 54). Furthermore, the Council Fathers anticipated the possibility of a wider use of the vernacular “wherever a more extended use of the mother tongue within Mass appears desirable,” despite the limits established (cf. *SC*, nn. 40 and 54). It is not surprising, then, that such a tension would find concrete expression during the immediate post-conciliar period with those who champion a more extended use of the vernacular and those favouring a more limited application.

Opposition to these provisions is understandable, for within a very short period of time the Mass and other sacraments, celebrated almost exclusively in Latin, were now celebrated almost exclusively in the vernacular. One can see in this example how the “evolutionary character” of the *Consilium* was operative, especially in the immediate post-conciliar period. Opposition to the official agenda of liturgical reform, then, frequently resides in the interpretation or application of *Sacrosanctum concilium* and not with the conciliar text itself.

3.1.1.2 – Changes to the *Ordo Missae*

As a result of the instruction *Inter oecumenici*, revisions were made to the existing *Ordo Missae* and the prefacing liturgical laws, namely the *Ritus servandus in celebratione Missae* (The rite to be observed in the celebration of the Mass) and the *De defectibus in Missae celebratione occurrentibus* (On defects that may occur in the celebration of Mass).²³ The changes incorporated consisted of several simplifications, all of which are found in *Inter oecumenici*, such as the omission of Psalm 42 during the prayers at the foot of the altar (*IO*, n. 48c), the omission of the prayers at the foot of the altar when another liturgical service immediately precedes the Mass (*IO*, n. 48c), the suppression of the last Gospel reading and accompanying Leonine prayers (*IO*, n. 48j), and the use of a simpler formulary when distributing communion (*IO*, n. 48i; *OM65*, n. 53). Similarly, the number of prescribed bows and genuflections was greatly reduced.²⁴ The revised text was published on 27 January 1965 and was presented as a new *editio typica*. A second change introduced in 1965 included adaptations

²³ SACRED CONGREGATION FOR RITES, Decree promulgating the new *Ordo Missae* and the *Ritus servandus in celebratione Missae*, *Nuper edita Instructio*, 27 January 1965, in *AAS*, 57 (1965), pp. 408-409, English translation in *DOL*, n. 196, p. 449; *Ordo Missae, Ritus servandus in celebratione Missae et De defectibus in celebratione Missae occurrentibus*, 27 January 1965, Typis Polyglottis Vaticanis, 1965.

²⁴ A complete list of the changes introduced to the rubrics of the *Missale Romanum* are indicated in *Notitiae*, 1 (1965), pp. 215-219. For a commentary on these changes see F.R. McMANUS, “Additional Revisions in the New Rite of Mass,” in *Worship*, 39 (1965), pp. 226-237. See also McManus’ two-part article on the implementation of *Inter oecumenici*: F.R. McManus, “The New Rite of Mass,” in *Worship*, 39 (1965), pp. 67-88; 139-165.

to the Order of Holy Week.²⁵ These changes consisted mainly in the introduction of concelebration at the Chrism Mass, a simplification of the rite for the blessing of the oils, and a change to the general intercessions of the Good Friday liturgy so as to be more in accord with the mind and decrees of the Second Vatican Council. Finally, a new *editio typica* of the rites of concelebration and of communion under both species was promulgated. These two rites were to be incorporated into the existing *Pontificale Romanum* and *Missale Romanum*.²⁶

Although the changes introduced as a result of the instruction *Inter oecumenici* resulted in the promulgation of the 1965 *editio typica* of the *Ordo Missae*, further changes were introduced two years later by means of the instruction *Tres abhinc annos*.²⁷ The principal changes included a reduction in the number of genuflections and signs of the cross employed, in addition to adaptations introduced into the communion rite and concluding rite of Mass. These changes were incorporated into a new volume published on 18 May 1967.²⁸ Bugnini concedes that the reforms introduced in 1967, while intending to be an application of the norms given in *Sacrosanctum concilium* and the instruction *Inter oecumenici*,

²⁵ SACRED CONGREGATION FOR RITES, Decree promulgating the text of changes in the Order of Holy Week *Quamplures Episcopi*, 7 March 1965, in *AAS*, 57 (1965), pp. 412-413, English translation in *DOL*, n. 454, p. 1186; *Variationes in ordinem hebdomadae sanctae inducendae*, 7 March 1965, Typis Polyglottis Vaticanis, 1965.

²⁶ *Idem*, Decree promulgating the *editio typica* of the rites of concelebration and of communion under both kinds *Ecclesiae semper*, 7 March 1965, in *AAS*, 57 (1965), pp. 410-412, English translation in *DOL*, n. 222, pp. 554-556; *Ritus servandus in concelebratione Missae et ritus communions sub utraque specie*, 7 March 1965, Typis Polyglottis Vaticanis, 1965.

²⁷ SACRED CONGREGATION FOR RITES, Second instruction on the orderly carrying out of the Constitution on the Liturgy *Tres abhinc annos*, 4 May 1967, in *AAS*, 59 (1967), pp. 442-448, English translation in *CLD*, 6, pp. 131-137.

²⁸ *Idem*, Decree promulgating the text on changes in the *Ordo Missae*, *Per Instructionem alteram*, 18 May 1967, in *Notitiae*, 3 (1967), p. 195, English translation in *DOL*, n. 201, p. 456; *Variationes in Ordinem Missae inducendae ad normam Instructionis S.R.C., die 4 Maii 1967*, 18 May 1967, Typis Polyglottis Vaticanis, 1967. The complete text is also reproduced in *Notitiae*, 3 (1967), pp. 195-211. The old and new texts are placed on facing pages so as to clearly identify the changes introduced.

“sometimes went beyond these documents, which obviously could not go into details.”²⁹ The changes made to the *Ordo Missae* – even before the promulgation of the revised *Missale Romanum* of Paul VI – provide yet another example of what Mannion identifies as the *Concilium*’s “internally evolutionary character,” that is, its inclination to both implement and, when necessary, interpret the conciliar Constitution on the Sacred Liturgy. Although this does not seem exceptionally controversial, many of those opposed to the post-conciliar liturgical reform frequently accuse the *Concilium*, and Bugnini himself, of imposing a particular agenda and departing from the Council’s explicit intentions.³⁰

3.1.1.3 – Liturgical Orientation

A notable change following the Second Vatican Council was the position adopted by the celebrant at Mass. Although Masses were celebrated facing the people before the Council, this practice remained limited and exceptional. The *Ritus servandus in celebratione Missae* of the 1962 Missal, for example, provided direction on the occasion the celebrant faced the people, most notably in churches with freestanding altars, such as those of the four major basilicas in Rome.³¹ Nevertheless, the prevailing post-conciliar practice of celebrating Mass *versus populum*, that is, with the celebrant facing the people, has been criticized on account that *Sacrosanctum concilium* never sanctioned this practice.

²⁹ BUGNINI, *The Reform of the Liturgy*, p. 116.

³⁰ See L DOBSZAY, *The Bugnini-Liturgy and the Reform of the Reform*, Front Royal, VA, Catholic Church Music Associates, 2003. The author provides a justification for his provocative title: “My expression ‘Bugnini Liturgy’ was earlier criticized by saying that the new liturgy was elaborated by commissions and not a single person, and was introduced under the authority of the Pope and the Curial Office concerned. These readers do not seem to have noticed the essentially provocative nature of the title. The name was naturally not meant to attribute this liturgy to one person, but has to do with the *contents*. It symbolized that the new liturgy was not a recent form of the Roman rite, nor another state of an organic development, but a hastily created, voluntarist invention, in which individual ideas and ambitions played a decisive, dominant role. This has remained so as regards the *content* even if it had received *legal* approbation” (ibid., p. 10).

³¹ “Si altare sit ad orientem, versus populum, celebrans versa facie ad populum, non vertit humeros ad altare, cum dicatus est *Dominus vobiscum*, *Orate fratres*, *Ite, missa est*, vel daturus benedictionem; sed osculate altari in medio, ibi expansis et iunctis manibus, ut supra, salutatur populum, et dat benedictionem” *Ritus Servandus in celebratione Missae*, “V – De oratione,” n. 3.

The principal argument presented in favour of the celebration of Mass *versus populum* concerns active participation in the liturgy.³² While it is quite true that *Sacrosanctum concilium* devoted no article to the orientation to be adopted by the celebrant vis-à-vis the altar, it does address the active participation of the faithful and the consequent organization of sacred furnishings. *Sacrosanctum concilium*, n 14, recalls that the faithful are to be led to a “full, conscious, and active participation” in the liturgy. As such, n 124 instructs that “when churches are to be built, let great care be taken that they are well suited to celebrating liturgical services and to bringing about the active participation of the faithful.” The *Consilium*, by means of the instruction *Inter oecumenici* applies this same principle not only to the construction of new churches, but also to the restoration or adaptation of already existing churches (*IO*, n 90). Furthermore, the placement of the altar is to be arranged in such a way as to permit celebration facing the people.

The main altar should preferably be freestanding, to permit walking around it and celebration facing the people. Its location in the place of worship should be truly central so that the attention of the whole congregation naturally focuses there (n 91)

The principle of ensuring the active participation of the faithful, then, is seen to necessitate the arrangement of the altar to permit the celebration of Mass *versus populum*. It was, after all, one of the guiding principles of the *Consilium* in the implementation of *Sacrosanctum concilium*. This directive would be repeated in a number of post-conciliar documents which acknowledged the pastoral effectiveness of celebrating Mass *versus populum* while recognizing, however, that it was “not absolutely indispensable for pastoral effectiveness.”³³ Similarly,

³² Another argument suggests that Mass *versus populum* was the practice of early Christians. Some have criticized the historical evidence supporting this practice. See C. NAPIER, “The Altar in the Contemporary Church,” in *The Clergy Review*, 57 (1972), pp. 624-632; U. M. LANG, *Turning Towards the Lord. Orientation in Liturgical Prayer*, San Francisco, Ignatius Press, 2004, pp. 35-88; K. GAMBER, *The Reform of the Roman Liturgy: Its Problems and Background*, trans. K. GRIMM, San Juan Capistrano, CA, Una Voce Press, 1993, pp. 77-89 (=GAMBER, *The Reform of the Roman Liturgy*).

³³ CONSILIUM, Letter of Cardinal G. Lercaro, president of the Consilium, to presidents of episcopal conferences on furthering liturgical reform *Le renouveau liturgique*, 30 June 1965, in *Notitiae*, 1 (1965), pp. 257-

with the promulgation of the revised *Missale Romanum*, the accompanying *General Instruction of the Roman Missal* again repeated that the main altar was to be freestanding so as to allow the ministers to walk around it easily and so that Mass can be celebrated facing the people.³⁴

Why did the celebration of Mass *versus populum* become such a widespread practice following the Council even though this issue was never even mentioned in *Sacrosanctum concilium*? Addressing the issue of liturgical prayer and the placement of the altar following the Second Vatican Council, J. Ratzinger explains:

The Eucharist – so it was said – had to be celebrated *versus populum* (toward the people). The altar – as can be seen in the normative model of St. Peter’s – had to be positioned in such a way that the priest and people looked at each other and formed together the circle of the celebrating community. This alone – so it was said – was compatible with the meaning of the Christian liturgy, with the requirement of active participation. This alone conformed to the primordial model of the Last Supper. These arguments seemed in the end so persuasive that after the Council (which says nothing about “turning toward the people”) new altars were set up everywhere, and today celebration *versus populum* really looks like the characteristic fruit of Vatican II’s liturgical renewal. In fact it is the most conspicuous of a reordering that not only signifies a new external arrangement of the places dedicated to the liturgy, but also brings with it a new idea of the essence of the liturgy – the liturgy as a communal meal³⁵

It is precisely the new essence of the liturgy that many found so objectionable. The adoption of the *ad orientem* posture, Ratzinger argues, serves to counter the inordinate emphasis placed on the gathered community, which can lead to the false notion that it is a self-contained group.

the common turning toward the east was not a ‘celebration toward the wall’; it did not mean that the priest ‘had his back to the people’. the priest himself was not regarded as so important. For just as the congregation in the synagogue looked together toward Jerusalem, so in the Christian liturgy the congregation looked together ‘toward the Lord’ [...] facing in the same direction, knowing together they were in procession toward the Lord. They did not close themselves into a circle; they did not gaze at one another; but as the pilgrim People of God they set off for the *Oriens*, for the Christ who comes to meet us.³⁶

264, English translation in *DOL*, n. 31, pp. 117-122. See also CONSILIIUM, Letter of Cardinal G. Lercaro, president of the Consilium to presidents of conferences of bishops, on the problems in the reform of the liturgy, 25 January 1966, in *Notitiae*, 2 (1966), pp. 157-161, English translation in *DOL*, n. 32, pp. 122-125.

³⁴ *General Instruction of the Roman Missal*, 4th edition, 27 March 1975, Typis Polyglottis Vaticanis, n. 262.

³⁵ J. RATZINGER, *The Spirit of the Liturgy*, trans. J. SAWARD, San Francisco, Ignatius Press, 2000, p. 77

³⁶ *Ibid.*, p. 80. Pope Benedict XVI provided the following reflection on the same topic: “In the early Church there was a custom whereby the Bishop or the priest, after the homily, would cry out to the faithful: ‘*Conversi ad Dominum*’ – turn towards the Lord. This meant in the first place that they would turn towards the

A criticism of the almost-exclusive adoption of the *versus populum* posture is that it results in a reorientation of the purpose of worship itself: “The turning of the priest toward the people has turned the community into a self-absorbed circle. In its outward form, it no longer opens out on what lies ahead and above, but is closed in on itself.”³⁷ Ironically, the *versus populum* posture has also introduced an “unprecedented clericalization,” according to Ratzinger, whereby the priest has become the focal point of the Mass: “Everything depends on him. We have to see him, to respond to him, to be involved in what he is doing. His creativity sustains the whole thing.”³⁸

Those opposed to this reorientation argue that it was entirely preventable. The near ubiquitous adoption of the *versus populum* orientation—not explicitly foreseen by the Second Vatican Council—became widespread on account of the explicit directives of the Holy See, that is, as a result of the *Consilium*’s “evolutionary character” of interpretation. Opposition to the adoption of the *versus populum* posture and the rearrangement of churches following the Council, then, relies both on the silence of *Sacrosanctum concilium* as well as subsequent theological reflection on this matter, as reflected in the characteristic line of argumentation noted above.

East, towards the rising sun, the sign of Christ returning, whom we go to meet when we celebrate the Eucharist. Where this was not possible, for some reason, they would at least turn towards the image of Christ in the apse, or towards the Cross, so as to orient themselves inwardly towards the Lord.” (BENEDICT XVI, Homily during the Easter Vigil, 22 March 2008, in *AAS*, 100 [2008], pp. 237-241, English translation in *L’Osservatore Romano*, weekly English edition, 41 [26 March 2008], p. 11)

³⁷ J. RATZINGER, *The Spirit of the Liturgy*, trans. J. SAWARD, San Francisco, Ignatius Press, 2000, p. 80. Consider also L. Bouyer’s observation concerning the correlation of liturgical orientation and active participation: “The practice of looking curiously at the Eucharistic elements themselves, especially at the time of the consecration, is a practice completely unknown to Christian antiquity. It was introduced only in the thirteenth century, together with the double elevation at that moment. More generally, the concentration on seeing what the officiants do, far from having ever accompanied a real participation of all in the liturgy, has appeared as a compensation for the lack of this participation, as is psychologically more or less exclusive of it” (L. BOUYER, *Liturgy and Architecture*, Notre Dame, IN, University of Notre Dame Press, 1967, p. 58).

³⁸ J. RATZINGER, *The Spirit of the Liturgy*, trans. J. SAWARD, San Francisco, Ignatius Press, 2000, p. 80.

3.1.2 – Traditionalism and Restorationism

To the restorationist or traditionalist agenda group belong those who directly oppose the official reform agenda and are fundamentally suspicious of the Second Vatican Council itself.³⁹ In addition to opposition to liturgical reform, restorationists also raise concerns regarding perceived departures from dogmatic pronouncements and changes to ecclesiastical discipline since the Second Vatican Council. Mgr Lefebvre and the schismatic movement he founded, the Society of Saint Pius X, represent one of the most extreme exponents of this agenda.⁴⁰ As Mannion observes,

[t]hese are unambiguously and unalterably committed to the return of the so-called Tridentine Mass; no other avenue of liturgical development is acceptable. This wing of the restorationist agenda fundamentally rejects the ability of any Pope to reform the Tridentine Mass and, for that reason, it objects in principle to the Missal of Paul VI.⁴¹

Concerns are frequently expressed by restorationists on the basis of perceived pastoral effectiveness, orthodoxy, and faithfulness to liturgical tradition. For example, on the same

³⁹ Dinges provides a helpful overview of the emergence of traditionalist dissent. He contends that Catholic traditionalism has passed through three phases: (1) from the beginning of the Second Vatican Council in 1962 to the mandatory implementation of the new liturgy in 1971; (2) from 1971 to 1984, that is, when the Holy See permitted broader use of the 1962 *Missale Romanum* by means of *Quattuor abhinc annos*; and (3) from 1984 to the present. Calling to mind the illicit episcopal ordinations of Mgr Lefebvre and the consequent excommunications, Dinges remarks that, during the third phase, traditionalism has acquired a “de jure schismatic status” (W.D. DIGNES, “‘We Are What you Were’: Roman Catholic Traditionalism in America,” in M.J. WEAVER and R.S. APPLEBY [eds.], *Being Right: Conservative Catholics in America*, Bloomington, IN, Indiana University Press, 1995, p. 243). Recent developments – the promulgation of *Summorum Pontificum* in 2007, the remission of the excommunications of those illicitly ordained by Mgr Lefebvre in 2009, and doctrinal discussions between the Congregation for the Doctrine of the Faith and the SSPX – suggest that Catholic traditionalism is beginning a new phase, marked not so much by dissent but by formal reconciliation.

⁴⁰ The so-called sedevacantists represent another, even less tenable, position. Komonchak describes this as follows: “At what one hopes is the extreme are the sedevacantists, people who judge the Second Vatican Council to have so departed from the tradition as to have taught heresy. By their reasoning, the popes who have approved and endorsed its teachings are heretics. In promulgating the documents of the Council, that is, Paul VI ceased formally to be pope. His subsequent acts being therefore invalid—including his appointments of cardinals and his rules for future papal elections—the conclaves that elected his two successors were also invalid. The present pope [John Paul II], in addition, has himself ratified Vatican II and *Dignitatis Humanae* and therefore forfeited and valid claim to the papacy. The Apostolic See, therefore, is vacant, and pretenders to it need not, indeed must not, be obeyed” (J.A. KOMONCHAK, “Interpreting the Council: Catholic Attitudes toward Vatican II,” in M.J. WEAVER and R.S. APPLEBY [eds.], *Being Right: Conservative Catholics in America*, Bloomington, IN, Indiana University Press, 1995, pp. 26-27).

⁴¹ MANNION, “The Catholicity of the Liturgy,” p. 16.

day Mgr. Lefebvre illicitly ordained men to the priesthood and subdiaconate and thereby incurred suspension, he delivered a sermon by which he criticized the revised Roman Missal.

And we have the precise conviction that this new rite of Mass expresses a *new* faith, a faith which is not ours, a faith which is not the Catholic Faith. This New Mass is a symbol, is an expression, is an image of a new faith, of a *Modernist* faith. For if the most holy Church has wished to guard throughout the centuries this precious treasure which She has given us of the rite of Holy Mass which was canonised by Saint Pius V, it has not been without purpose [. . .] This Mass is no longer a hierarchical Mass; it is a democratic Mass. And this is most grave. It is the expression of a *whole new ideology*. The ideology of modern man has been brought into our most sacred rites. And this is what is at present corrupting the entire Church. For by this idea of power bestowed on the lower rank, in the Holy Mass, they have destroyed the priesthood!⁴²

The revised *Ordo Missae* is perceived by Mgr. Lefebvre as a departure from tradition and a grave consequence of the supposed adoption of neo-modernist or protestant ideologies by the Holy See.

Not all proponents of pre-conciliar liturgical forms, however, advocate for a corresponding suppression of the revised liturgical rites; “for some the coexistence of the various order of the Mass is both acceptable and desirable.”⁴³ Gamber, for instance, proposed an arrangement quite similar to that of *Summorum Pontificum*.

The traditional *ritus Romanus* and the *ritus modernus* should both be accepted as legitimate forms of liturgical worship. The two rites are to exist as independent rites and must be kept separate and unique in such a way that the traditional Roman rite and the traditionally used *Missale Romanum*, together with all other liturgical texts (*Rituale* and *Pontificale*), be reinstated or be authorized for us in the form in which they existed prior to the Council. The changes made in the liturgy following the conclusion of the Council should apply only to the *ritus modernus*.⁴⁴

Gamber insists, however, that the Missal of Paul VI should no longer be considered part of the Roman Rite but as a unique rite, approved *ad experimentum*. Although Gamber’s proposal is quite similar to the arrangement proposed in *Summorum Pontificum*, in as much as both recognize two parallel forms, it differs in one respect. The *ritus romanus* and the so-called *ritus*

⁴² M. LEFEBVRE, Homily during an illicit ordination of priests, 29 June 1976, in Y. MONTAGNE, *L'Évêque suspendu: Mgr. Lefebvre*, Rome, Catholic Laymen’s League, 1977, pp. 204-209; English translation in M. DAVIES, *Apologia pro Marcel Lefebvre*, 3 vols., Dickinson, TX, Angelus Press, 1979, vol. 1, pp. 207-209.

⁴³ MANNION, “The Catholicity of the Liturgy,” p. 18.

⁴⁴ K. GAMBER, *The Reform of the Roman Liturgy: Its Problems and Background*, trans. K. GRIMM, San Juan Capistrano, CA, Una Voce Press, 1993, p. 91.

modernus are not two irreconcilable rites but, as Benedict XVI insists, “two usages of the one Roman rite,” that is, two expressions of the Church’s *lex orandi* which in no way leads to a division in the Church’s *lex credendi* (*SP*, art. 1). While many restorationists welcome the new provisions of *Summorum Pontificum*, in so far as it permits greater use of the 1962 *Missale Romanum*, concerns are still expressed concerning the Second Vatican Council itself, especially regarding developments in ecclesiology, ecumenism, religious liberty, relations with Jews, and the apostolate of the laity. The Congregation for the Doctrine of the Faith and the Society of St. Pius X are presently engaged in doctrinal discussions to resolve these outstanding issues.

3.1.3 – The Reform of the Reform

Where restorationists seek a complete or partial rehabilitation of the pre-conciliar liturgical rites, proponents of the so-called “reform of the reform” fundamentally acknowledge the vision of the Council and the need to reform the sacred liturgy but suggest that the programme for reform has been unsuccessful in implementing the true vision of *Sacrosanctum concilium*. Those who advocate a reform of the post-conciliar liturgical reform, often billed as the new liturgical movement, point especially to *Sacrosanctum concilium*’s desire to balance “sound tradition” with “legitimate progress:”

In order that sound tradition be retained, and yet the way remain open to legitimate progress, a careful investigation – theological, historical, and pastoral – should always be made into each part of the liturgy which is to be revised. Furthermore the general laws governing the structure and meaning of the liturgy must be studied in conjunction with the experience derived from recent liturgical reforms and from the indults granted to various places. Finally, there must be no innovations unless the good of the Church genuinely and certainly requires them, and care must be taken that any new forms adopted should in some way grow organically from forms already existing (*SC*, n. 23).

One of the most frequent and compelling critiques of the post-Vatican II liturgy is that, without the appropriate theological, historical, and pastoral considerations, it failed to develop organically from earlier forms of the Roman rite. Superfluous innovations which

were not genuinely required were introduced to the detriment of sound traditions of the past. In short, the revised liturgical forms represent a “rupture” or break with objective liturgical tradition.

Although various corrective measures are proposed, the broad lines of the “reform of the reform” are highlighted by T. Kocik.

What we need is not a return to the past (as if reality has not changed since 1962), but an implementation of the Council’s Constitution on the Sacred Liturgy (*Sacrosanctum concilium*, December 4, 1963) according to the letter of the Constitution itself. This entails the recovery of certain elements and patterns of prayer that have been all but lost since the 1960s (for example, Latin and Gregorian chant) and, in light of post-conciliar experience, a critical reassessment (if not suppression) of some practices that now enjoy official approbation (for example, Communion in the hand, female altar servers, the celebration of the whole Mass facing the people). A new liturgical reform – better, ‘a reform of the reform’ – would also require an enrichment of the current Missal so that its continuity with the past can be more easily shown. Of course, this is no overnight project. Its success will depend largely on the bishops and their liturgical offices to carry it out, while avoiding the same mistakes made in implementing the conciliar reforms.⁴⁵

Proponents frequently look to the initial implementation of *Sacrosanctum concilium*, that is, the 1965 *editio typica*, as a faithful execution of the reforms foreseen by the Second Vatican Council. All subsequent reform, then, is arguably a departure from the Council’s intentions.⁴⁶

The reform of the reform agenda received considerable endorsement recently from Msgr. Guido Marini, the present master of papal liturgical ceremonies:

For some years now, several voices have been heard within church circles talking about the necessity of a new liturgical renewal. Of a movement, in some ways analogous to the one which formed the basis for the reform promoted by the Second Vatican Council, capable of operating a reform of the reform, or rather, one more step ahead in understanding the authentic spirit of the liturgy and of its celebration; its goal would be to carry on that providential reform of the liturgy that the conciliar fathers had launched but has not always in its practical implementation found a timely and happy fulfillment.

⁴⁵ T.M. KOCIK, *The Reform of the Reform? A Liturgical Debate: Reform or Return*, San Francisco, Ignatius Press, 2003, pp. 23-24. Specific proposals include: (1) The retention of Latin for the ordinary parts of the Mass; (2) the retention of only the Roman Canon; (3) Retrieval of the offertory prayers of the 1962 *Missale Romanum*; (4) the recitation of the offertory prayers and Roman Canon in a low voice; (5) the distribution of communion kneeling and on the tongue; (6) the elimination of extraordinary ministers of holy communion; and (7) the adoption of an *ad orientem* posture for the priest (B. HARRISON, “Postconciliar Eucharistic Liturgy: Planning a ‘Reform of the Reform,’” in *ibid.*, pp. 170-193).

⁴⁶ See A. REID, “*Sacrosanctum concilium* and the Reform of the *Ordo Missae*,” in *Antiphon*, 10 (2006), p. 290-291; GAMBER, *The Reform of the Roman Liturgy*, pp. 31-33; T.M. KOCIK, “The ‘Reform of the Reform’ in Broad Context: Re-engaging the Living Tradition,” in *Antiphon*, 12, n.1 (2008), pp. 40-41.

There is no doubt that in this new liturgical renewal it is we priests who are to recover a decisive role. With the help of our Lord and the Blessed Virgin Mary, mother of all priests, may this further development of the reform also be the fruit of our sincere love for the liturgy, in fidelity to the church and the Holy Father⁴⁷

By acknowledging that the post-conciliar liturgical reform “has not always in its practical implementation found a timely and happy fulfillment,” it is foreseeable that certain pre-conciliar practices may find renewed expression in celebrations of Mass according to the Missal of Paul VI. Some of these practices, in fact, may require legislative changes. Since the rehabilitation of the 1962 *Missale Romanum* is not the principal objective of the proponents of the “reform of the reform,” *Summorum Pontificum* is significant only in so far as it explicitly encourages the “mutual enrichment” of both forms of the Roman rite.

3.2 – Challenges to Conciliar and Papal Authority

Beyond a consideration of the principal objectives of *Sacrosanctum concilium* and an evaluation of its implementation, concerns are also expressed about the juridic nature of the documents themselves. By means of obfuscating the authoritativeness of the documents of the Second Vatican Council or challenging the pope’s authority to abrogate or modify liturgical rites, arguments are put forth to either disparage post-conciliar liturgical reforms or legitimate the use of earlier liturgical books. What is the precise nature of the teachings expressed in the conciliar documents, and by what means can a pope abrogate or reform a liturgical rite? These challenges to conciliar and papal authority will now be considered.

⁴⁷ G. MARINI, Address at the Year for Priests Clergy Conference in Rome, 6 January 2010, in *Origins*, 39 (2009-2010), p. 526. Under Msgr. Guido Marini’s tenure, various traditional practices have also found renewed expression at papal Masses, including: (1) the arrangement of seven candles and a crucifix upon the altar, (2) occasional celebrations *ad orientem* in the Sistine Chapel, (3) use of the “Roman” or “fiddleback” style chasuble; and (4) the distribution of communion on the tongue while kneeling. For a brief consideration of the use of various pre-conciliar liturgical practices with the revised liturgical rites, see C.J. GLENDINNING, “Adopting Pre-Conciliar Liturgical Practices in the Celebration of the Ordinary Form of the Mass,” in S. EUART, S.M. VERBEEK (eds.), *Roman Replies and CLSA Advisory Opinions 2009*, Washington, DC, Canon Law Society of America, 2009, pp. 61-67.

3.2.1 – Challenges to Conciliar Authority

A criticism often leveled against the Second Vatican Council concerns its pastoral character. Unlike previous ecumenical councils which were summoned to address erroneous teachings or dangerous ideologies and, in turn, produced unequivocal condemnations and formal expressions of doctrine, John XXIII intended to adopt a different approach.⁴⁸ Following the opening Mass, the Pope's address to the assembled bishops rejected the thoughts of "prophets of gloom, who are always forecasting disasters, as though the end of the world were at hand."⁴⁹ Instead, John XIII stressed the pastoral, not doctrinal, purpose of the Council. He exhorted the Council Fathers "to prefer to make use of the medicine of mercy rather than of severity" in the documents they would produce.⁵⁰ Understandably, this fresh approach introduced a degree of confusion following the Council as to the nature and binding quality of its authoritative decisions.⁵¹

⁴⁸ O'Malley's analysis of earlier councils reveals a "characteristic style of discourse" The vocabulary employed in the documents produced by previous councils "consisted in words of threat and intimidation, words of surveillance and punishment, words of a superior speaking to inferiors, or, just as often, to an enemy It consisted in power words." The literary styled adopted in the documents of the Second Vatican Council are identified as "panegyric, that is, the painting of an idealized portrait in order to excite admiration and appropriation [...] It derives from neither the legal tradition of classical antiquity nor the philosophical/dialectical but from the humanistic or literary" (J.W. O'MALLEY, "Vatican II: Did Anything Happen?" in *Theological Studies*, 67 [2006], pp.20-23).

⁴⁹ JOHN XXIII, Allocution at the commencement of the Second Vatican Council *Gaudet mater Ecclesia*, 11 October 1962, in *AAS*, 54 (1962), pp. 786-796, English translation in W. ABBOTT (gen. ed.), *The Documents of Vatican II*, Piscataway, NJ, New Century Publishers, 1966, p. 712.

⁵⁰ *Ibid*, p. 716

⁵¹ In the case of the Second Vatican Council, many of the documents are of a mixed nature, containing both expository material of a doctrinal nature and dispositive norms The juridical norms contained in the documents, however, were often repeated in the form of a papal *motu proprio*, with additional norms for their correct application and implementation. See (1) PAUL VI, Apostolic letter *motu proprio* on putting into effect some prescriptions of the Constitution on the Sacred Liturgy *Sacram liturgiam*, 25 January 1964, in *AAS*, 56 (1964), pp. 139-144, English translation in *DOL*, n. 20, pp. 84-87; (2) PAUL VI, Apostolic letter *motu proprio* extending the period of suspension for some Council decrees *Munus apostolicum*, 10 June 1966, in *AAS*, 58 (1966), pp. 465-466, English translation in *CLD*, 6, pp. 259-260; (3) PAUL VI, Apostolic letter *motu proprio* on the dispensing power of bishops *De Episcoporum muneribus*, 15 June 1966, in *AAS*, 58 (1966), pp. 467-472, English translation in *CLD*, 6, pp. 394-400; (4) PAUL VI, Apostolic letter *motu proprio* on the implementation of the decrees of the Second Vatican Council *Ecclesiae Sanctae*, 6 August 1966, in *AAS*, 58 (1966), pp. 757-787, English translation in *CLD*, 6, pp. 264-298. Since the juridic norms were given concrete legislative expression

Sullivan, in his thorough analysis of the matter, identifies three schools of thought, the “minimizers,” the “maximizers,” and the “moderates.” As he explains, the “minimizers” were those who continued to oppose the decisions taken by the Council on the basis that such documents had a purely pastoral function.⁵² At the other extreme, of course, were those who held that the Council’s pronouncements were equivalent to a formal expression of doctrine.⁵³ The “moderates,” among whom Sullivan includes Y. Congar and J. Ratzinger, insist that, while the Council’s pronouncements are not dogmatic definitions, they still require a certain measure of acceptance.⁵⁴ J. Ratzinger provides the following analysis:

The Council has laid down no new dogma on any subject. But this does not mean that all the Council says is mere edification, binding no one. Its texts, according to their literary form, have serious claims upon the conscience of Catholics; their pastoral dispositions are based on doctrine, and their doctrinal passages are suffused in concern for men and for a Christianity of flesh and blood in the world today. This Council is ‘pastoral’ in its function of truth and love, ‘doctrine’ and pastoral solicitude. It wished to reach beyond the dichotomy between pragmatism and doctrinalism, back to the biblical unity in which practice and doctrine are one, a unity grounded in Christ, who is both the *Logos* and the Shepherd. as the *Logos* he is our Shepherd, and as our Shepherd he is the *Logos*.⁵⁵

An official response of the Theological Commission, appended to the Dogmatic Constitution on the Church, *Lumen gentium*, provided an important clarification concerning the nature of the conciliar documents. After recalling the canonical principle that no doctrine

following the Council, confusion appears to reside exclusively with evaluating the expository or doctrinal nature of the documents.

⁵² F.A. SULLIVAN, *Creative Fidelity: Weighing and Interpreting Documents of the Magisterium*, New York, Mahweh, NJ, Paulist Press, 1996, p. 165. For an example of those who argued that the pastoral character of the Second Vatican Council deprived its documents of any binding force see H. LATTANZI, “De nexu agnoscendo inter episcopalem consecrationem et sacra Ecclesiae munera,” in *Divinitas*, 9 (1965), pp. 393-414; P.A. GUTIERREZ, “Collegium episcopale tamquam subiectum plenae ac supremae potestatis in universam Ecclesiam,” in *Divinitas*, 9 (1965), pp. 421-446.

⁵³ See U. BETTI, “Qualification théologique de la Constitution,” in G. BARAUNA (ed.), *L’Église de Vatican II*, 3 vols., Paris, Cerf, 1967, vol. 2, pp. 211-218.

⁵⁴ “Le Concile n’a pas voulu formuler de nouveaux dogmes au sens strict de ce mot [...] cela suffit pour que la doctrine proposée s’impose comme celle sur laquelle s’accorde le magistère catholique unanime.” Y. CONGAR, “En guise de conclusion,” in G. BARAUNA (ed.), *L’Église de Vatican II*, 3 vols., Paris, Cerf, 1967, vol. 3, pp. 1366-1367.

⁵⁵ J. RATZINGER, “Announcements and Prefatory Notes of Explanation,” in H. VORGRIMLER (gen. ed.), *Commentary on the Documents of Vatican II*, 5 vols., Freiburg, Herder and Herder, 1967-1969, vol. 1, p. 299.

is to be understood as infallibly defined unless the Council clearly expressed its intention to do so, the notification continued by addressing those who would claim that documents emanating from a “pastoral” council have no binding force:

Whatever else it proposes as the teaching of the supreme magisterium of the Church is to be acknowledged and accepted by each and every member of the faithful according to the mind of the Council which is clear from the subject matter and its formulation, following the norms of theological interpretation.⁵⁶

Although the Second Vatican Council chose not to exercise its authority to condemn fallacious propositions or define any dogmas of faith, its documents remain expressions of the teaching of the ordinary magisterium which Christ’s faithful are to accept according to the mind of the Council.⁵⁷

In 1989, a new profession of faith was proposed by the Congregation for the Doctrine of the Faith.⁵⁸ Reference to this profession of faith will assist in the task of defining

⁵⁶ SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 5-75, English translation in FLANNERY1, pp. 423-424.

⁵⁷ In one of his letters to Mgr. Lefebvre, Paul VI reinforces this same point: “Again, you cannot appeal to the distinction between what is dogmatic and what is pastoral to accept certain texts of this Council and refuse others. Indeed, not everything in the Council requires an assent of the same nature: only what is affirmed by definitive acts as an object of faith or as a truth related to faith requires an assent of faith. But the rest also forms part of the solemn magisterium of the church to which each member of the faithful owes a confident acceptance and a sincere application” (PAUL VI, Letter to Archbishop Marcel Lefebvre *Cum te*, 11 October 1976, in *Notitiae*, 12 [1976], pp. 417-427, English translation in *Origins*, 6 [1976-1977], pp. 416-420).

⁵⁸ CONGREGATION FOR THE DOCTRINE OF THE FAITH, Profession of Faith and Oath of Fidelity, 9 January 1989, in *AAS*, 81 (1989), pp. 104-106, English translation in *Newsletter of the Canadian Canon Law Society*, 17, n. 2 (December, 1991), pp. 43-47. The manner in which the new profession of faith and oath of fidelity were promulgated raised questions concerning its nature and obligation. See H. SCHMITZ, “Professio Fidei und ‘Iusurandum Fidelitatis,’” in *Archiv für katholisches Kirchenrecht*, 157 (1988), pp. 353-429; F.A. SULLIVAN, “Some Observations on the New Formula for the Profession of Faith,” in *Gregorianum*, 70 (1989), pp. 549-558; CATHOLIC THEOLOGICAL SOCIETY OF AMERICA, *Report of the Catholic Theological Society of America Committee on the Profession of Faith and the Oath of Fidelity*, Washington, DC, Catholic Theological Society of America, 1990, pp. 46-71; R. PAGE, “Le document sur la profession de foi et le serment de fidélité,” in *Studia canonica*, 24 (1990), pp. 51-68. The principal difficulty concerned the changes it proposed in the law. The Congregation of the Doctrine of the Faith lacks legislative power (cf. *PB*, art. 18), yet it proposed a new canonical obligation, namely, an extension of the duty to take an oath of fidelity upon assumption of office to the categories of persons listed in *CIC/83*, c. 833, 5°-8°. This necessitated a further response to clarify that the new profession of faith had received papal approbation (CONGREGATION FOR THE DOCTRINE OF THE FAITH, Rescript *ex auctoritate Sanctissimae* concerning the new profession of faith and oath of fidelity, 19 September 1989, in *AAS*, 81 [1989], p. 1169). The new profession of faith and oath of fidelity went into effect on 1 March 1989 (see *AAS*, 81 [1989], pp. 105, 1169).

more precisely the nature of the assent required for teachings contained in the documents of the Second Vatican Council.

The profession of faith begins with the Nicene-Constantinopolitan Creed – but in the first person singular – and concludes with the addition of three propositions. The first paragraph states: “With firm faith, I believe also all that is contained in the Word of God, whether written or handed down in tradition, which the Church, either in solemn judgment or by its ordinary and universal teaching authority, sets forth for our belief as divinely revealed.” A commentary provided by the Congregation for the Doctrine of the Faith indicates that the truths contained in this paragraph include doctrines which are “contained in the word of God, written or handed down, and defined with a solemn judgement as divinely revealed truths either by the Roman pontiff when he speaks ‘ex cathedra’ or by the college of bishops gathered in council, or infallibly proposed for belief by the ordinary and universal magisterium” (n. 5).⁵⁹ These doctrines require the assent of theological faith. Whoever obstinately places them in doubt or denies them falls under the censure of heresy (CIC/83, cc. 750-751, 1364). While an ecumenical council is capable of defining revealed truths, such as was done in the past, clearly this was not the aim or intent of the Second Vatican Council.

The second paragraph of the profession of faith states: “I also firmly accept and hold each and everything definitively proposed by the Church concerning its teachings on faith and morals.”⁶⁰ This includes “all those teachings belonging to the dogmatic or moral area

⁵⁹ CONGREGATION FOR THE DOCTRINE OF THE FAITH, Illustrative doctrinal note on the Profession of Faith, 29 June 1998, in *AAS*, 90 (1998), pp. 542-551, English translation in *Origins*, 28 (1998-1999), pp. 116-119.

⁶⁰ An additional difficulty with the new profession of faith concerned the content of the second proposition as there was no corresponding obligation in the 1983 Code of Canon Law or the *CCEO*. This was rectified with the *motu proprio Ad tuendam fidem* which added a second paragraph to c. 750 to correspond to the second clause of the profession of faith. Reference to c. 750, §2 was also amended in c. 1371, thereby

which are necessary for faithfully keeping and expounding the deposit of the faith, even if they have not been proposed by the magisterium of the church as formally revealed” (n. 6).⁶¹ Like the above, these doctrines can be defined “solemnly by an act of the Roman pontiff when he speaks ‘ex cathedra’ or by the college of bishops gathered in council or taught infallibly by the ordinary and universal magisterium as a ‘*sententia definitiva tenenda*’” (n. 6). Every Catholic believer, therefore, is required to give “firm and definitive assent” to these truths, “based on the faith in the Holy Spirit’s assistance to the church’s magisterium and on the Catholic doctrine of the infallibility of the magisterium in these matters” (n. 6). As the commentary notes, whoever denies these truths would be in a position of rejecting a truth of Catholic doctrine and would therefore no longer be in full communion with the church (n. 6). Such persons can be punished with a just penalty (*CIC/83*, c. 1371, 1^o). Again, the intent of the Second Vatican Council excludes any attempt to definitively propose any doctrines which are necessary for faithfully keeping and expounding the deposit of the faith.

The third paragraph of the profession of faith states: “Moreover, I adhere with religious submission of intellect and will to the teachings which either the Roman Pontiff or the College of Bishops enunciate in the exercise of their authentic teaching authority, even if they do not intend to proclaim these teachings by a definitive act.” The commentary provided by the Congregation for the Doctrine of the Faith indicates that this paragraph includes “all those teachings – on faith and morals – presented as true or at least sure, even if

establishing that one who teaches a condemned doctrine or pertinaciously rejects a doctrine mentioned in c. 750, §2 may be punished with a just penalty. The *CCEO*, c. 598, was also amended to reflect the new profession of faith, along with the corresponding penalty (*CCEO*, c. 1436). See JOHN PAUL II, Apostolic letter *motu proprio* modifying the codes of canon law *Ad tuendam fidem*, 18 May 1998, in *AAS*, 90 (1998), pp. 457-461, English translation in *Origins*, 28 (1998), pp. 113-116.

⁶¹ The doctrinal note includes the following examples: The primacy of the successor of Peter even before the doctrine of papal infallibility was defined at the First Vatican Council; the reservation of priestly ordination to men only; the illicitness of euthanasia, prostitution, and fornication; the legitimacy of the election of the supreme pontiff or of the celebration of an ecumenical council; canonizations of saints; the declaration of Leo XIII on the invalidity of Anglican ordination (n. 11).

they have not been defined with a solemn judgement or proposed as definitive by the ordinary and universal magisterium” (n. 10). These teachings, nevertheless, are authentic expressions of the ordinary and universal magisterium of the Roman pontiff or the college of bishops. The purpose of these teachings is to arrive at a deeper understanding of revelation, or to recall the conformity of a teaching with the truths of faith, or to warn against ideas incompatible with these truths or against dangerous opinions that can lead to error. A proposition contrary to the truths of the third paragraph can be qualified as “erroneous” or, in the case of teachings of the prudential order, as “rash or dangerous and therefore *tuto doceri non potest*” (cf. *CIC/83*, cc. 752, 1371). It is precisely in this category of propositions of the new profession of faith that most pronouncements of the Second Vatican Council can be accurately placed.⁶² As such, to these teachings the faithful are to adhere with religious submission of will and intellect.⁶³ Consequently, to obstinately reject the teachings of the Second Vatican Council amounts to a rejection of the authentic expression of the ordinary and universal magisterium exercised by the college of bishops assembled in an ecumenical council.⁶⁴ Under certain conditions, a just, indeterminate *ferendae sententiae* penalty may be imposed (*CIC/83*, c. 1371, 1°; *CCEO*, c. 1436, §2).

⁶² L. BLYSKAL, *The Ordinary Ecclesiastical Magisterium from the Antepreparatory Documents of Vatican Council II to Canons 752 and 753 in the 1983 Code*, Canon Law Studies, n. 523, Washington, DC, Catholic University of America, 1987, p. 212. See also, E. TEJERO, “The Teaching Office of the Church,” in E. CAPARROS, et al (eds.), *Code of Canon Law Annotated*, 2nd ed. rev., Montréal, Wilson & Lafleur Limitée, 2004, p. 587.

⁶³ The difficulty of translating *obsequium religiosum* into English has been thoroughly debated. Orsy has argued that *obsequium* is a “seminal locution,” like *subsistit in*, and defies an accurate translation (See L. ORSY, “Magisterium. Assent and Dissent,” in *Theological Studies*, 48 (1987), pp. 487-490). F. Sullivan argues that “submission” is a far more accurate translation than “respect” as used in the first CLSA translation of the *CIC* (See F. SULLIVAN, “The Response Due to the Non-Definitive Exercise of Magisterium [Canon 752],” in *Studia canonica*, 23 (1989), pp. 267-283). Although the latest CLSA translation has opted for “submission,” this choice has been criticized by J. Coriden who argues that it exaggerates the meaning. He prefers “respect,” “deference,” “concurrence,” “adherence,” “compliance,” or “allegiance.” (See J. CORIDEN, “Book III: The Teaching Function of the Church,” in *CLSA Comm2*, p. 916)

⁶⁴ Not all teachings representative of the third paragraph require the same level of adherence. One must consider: the nature of the document (including its title), and the frequent repetition of the same doctrine

3.2.2 – Challenges to Papal Authority

After the promulgation of the revised Roman Missal by Pope Paul VI in 1969, a number of opinions were proposed to legitimate the continued use of older versions of the *Missale Romanum*. Three distinct arguments are put forward: (1) by means of his Apostolic Constitution *Quo primum*, Pius V established a perpetual indult whereby the *Missale Romanum* of 1570 could be used in perpetuity; (2) the Missal of Pius V may be celebrated in virtue of immemorial custom; and (3) Paul VI did not properly promulgate the revised Missal of 1970.⁶⁵ Although the promulgation of *Summorum Pontificum* has rendered the first two of these issues somewhat moot, in as much as use of the 1962 *editio typica* is no longer restricted, the third issue requires special consideration in light of *Summorum Pontificum*'s claim that the 1962 *editio typica* was never abrogated. Nevertheless, throughout the intervening years following the promulgation of the revised Missal and the promulgation of *Summorum Pontificum*, these claims to legitimize the use of the 1962 *editio typica* remained a thinly veiled challenge of the papal authority necessary to introduce alterations into the *Missale Romanum*.

Mgr Lefebvre articulated what has become an oft repeated claim made by many opposed to the liturgical reforms. The claim asserts that Pope St. Pius V, in his Apostolic Constitution *Quo primum*, 14 July 1570, by which he promulgated the *Missale Romanum*, established a perpetual indult, whereby the *Missale Romanum* of 1570 could be used in

or the tenor of the verbal expression W. Kasper proposes four hermeneutical principles for the interpretation of conciliar documents (1) the text must be understood and put into practice as a whole; (2) the letter and the spirit of the council must be understood as a unity; (3) The council must be understood in light of the wider tradition of the church; (4) the continuity of what is Catholic is understood "as a unity between tradition and a living, relevant interpretation in the light of the current situation." (W. KASPER, *Theology and Church*, London, SCM Press, 1989, pp 171-173).

⁶⁵ These objections are also addressed in J.M. HUELS, "False Opinions on the Use of the Tridentine Rite," in A. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Alexandria, VA, Canon Law Society of America, 2006, pp. 1-3. For earlier treatments of these same objections see J. LIKODIS and K.D. WHITEHEAD, *The Pope, The Council, and the Mass: Answers to the Questions the "Traditionalists" are Asking*, rev. ed, W Hanover, MA, Christopher Publishing House, 1982; G. OURY, *La Messe de S. Pie V à Paul VI*, Solesmes, Abbaye Saint-Pierre de Solesmes, 1975 A critical pseudonymous response to the latter was forthcoming. See FUNDITOR, *Réponse à Dom Oury sur la messe de Saint Pie V à Paul VI*, Paris, Editions de la Nouvelle Aurore, 1976.

perpetuity.⁶⁶ The difficulty with the assertion is precisely in relation to its confused use of terminology. The word “indult” is often employed as an alternative term for other concepts in canon law. To argue that Pius V, by means of *Quo primum*, intended to grant a perpetual indult, that is, a privilege for all the Christian faithful, fails to appreciate the juridic nature of privileges. Despite notable differences between the 1917 and 1983 Codes, the canonical tradition confirms that a privilege permits something contrary to the law (*contra ius*) or apart from the law (*praeter ius*). *Quo primum*, then, did not grant a perpetual indult. It is rather the result of a legislative act of Pius V, a universal law requiring the use of the *Missale Romanum* in the whole Latin Church, except for those dioceses and religious orders that had their own particular liturgies for at least two hundred years. As a law for the entire Latin Church – not a privilege for any individual, group or territory – it can be revoked by a later legislator (cf. *CIC/17*, c. 22; *CIC/83*, c. 20). Paul VI accomplished this by means of his apostolic constitution *Missale Romanum*.⁶⁷

In a similar vein, it was also argued that observance of the Rite of Mass promulgated by Pius V established an immemorial custom which was not revoked by Paul VI’s apostolic constitution *Missale Romanum*.⁶⁸ Immemorial and centenary customs are not revoked by a general formula (*CIC/17*, c. 30; *CIC/83*, c. 28). Canonical doctrine is clear that a new law must explicitly indicate that it also revokes the centennial and immemorial customs beyond

⁶⁶ See PIUS V, Apostolic constitution promulgating the *Missale Romanum* of 1570 *Quo primum*, 14 July 1570, in P. GASPARRI (ed.), *Codex iuris canonici fontes*, Rome, Typis Polyglottis Vaticanis, 1939, vol. 1, pp. 241–243.

⁶⁷ See “La mise en application du nouveau Missel Romain. État de la question,” in *Notitiae*, 8 (1972), pp. 337–342.

⁶⁸ An expression of this argument was prepared and published by a group of anonymous French canonists. See “Consultation, Témoignage et vœu sur le Nouvel Ordo Missae,” in *La pensée catholique*, n. 122 (1969), pp. 44–47.

the commonly used general clauses of revocation.⁶⁹ While it is true that the *Missale Romanum* of Paul VI does not contain an explicit revocation of centenary and immemorial customs, it is equally clear that the observance of the Tridentine Rite of Mass was not a custom. As noted above, Pius V imposed the use of his revised Missal by means of a new law, namely, the apostolic constitution *Quo primum*. The use of the Roman Missal was decreed by universal law in 1570 and has been revised by subsequent legislative acts numerous times, most recently in 2000 by John Paul II. Since the observance of the Tridentine Rite of Mass occurred due to a legislative act of Pius V and not a custom introduced by the community, no recourse can be made to the effects of a centenary or immemorial custom.

In addressing the third objection, it must be first noted that Paul VI's 1969 apostolic constitution *Missale Romanum* was properly promulgated in the *Acta Apostolicae Sedis*, as required by law (cf. *CIC/17*, c. 9; *CIC/83*, c. 8).⁷⁰ A later law abrogates or derogates from an earlier law when (1) it expressly states this; (2) it is directly contrary to the earlier law; or (3) it integrally reorders the whole subject matter of the earlier law. These are fundamental and longstanding canonical rules (cf. *CIC/17*, c. 22; *CIC/83*, c. 20; *CCEO*, c. 1502). In response to *Sacrosanctum concilium's* explicit call for a reform of the order of Mass, Paul VI entrusted the revision of these rites to a special commission for the proper implementation of the Constitution⁷¹ and approved the revised Roman Missal by means of the apostolic

⁶⁹ A phrase such as "*contrarius quibuslibet minime obstantibus*" would not be sufficient to revoke centenary or immemorial customs. See J. OTADUY, "Title II: Custom," in *Exegetical Comm*, vol. 1, pp. 430-436.

⁷⁰ The following sentence, appearing in the officially promulgated text, is notably absent from the text as it appeared prefacing the revised *Ordo Missae*: "Quae Constitutione hac Nostra praescriptis vigere incipient a die XXX proximi mensis Novembris hoc anno, id est a Dominica I Adventus." See *Ordo Missae*, 6 April 1969, editio typica, Typis Polyglottis Vaticanis, 1969, p. 12. Inevitably, some questioned the authenticity of the text and the binding force of its prescriptions. See BUGNINI, *The Reform of the Liturgy*, p. 290.

⁷¹ PAUL VI, Apostolic letter *motu proprio* on putting into effect some prescriptions of the Constitution on the Sacred Liturgy *Sacram liturgiam*, 25 January 1964, in *AAS*, 56 (1964), pp. 139-144, English translation in *DOL*, n. 20, pp. 84-87.

constitution *Missale Romanum*.⁷² The apostolic constitution concluded by noting that it had the force of law “now and in the future,” and it expressly revoked “the apostolic constitutions and ordinances issued by our predecessors and other prescriptions, even those deserving particular mention and amendment.” This explicit abrogation of all earlier pertinent legislation is clearly manifest, if not from the text itself then at least from subsequent documents confirming that such an act had, in fact, occurred.

The Sacred Congregation for Divine Worship issued a notification to clarify that once a conference of bishops decrees that a translation of the Roman Missal, or any part of it, is obligatory in a region, “Mass, whether in Latin or in the vernacular, may be celebrated lawfully only according to the rite of the Roman Missal promulgated 3 April 1969 by authority of Pope Paul VI.”⁷³ Similarly, had Paul VI not abrogated the law which required the use of the earlier Roman Missal and substituted in its place the law requiring the use of the revised Roman Missal, provision for continued use of the 1962 Roman Missal would have been juridically unnecessary. Provisions made for the continued use of the 1962 Roman Missal demonstrate that the law mandating its use was, indeed, abrogated.⁷⁴ Paul VI, by means of his apostolic constitution *Missale Romanum*, therefore, accomplished two things: (1) the abrogation of all contrary universal legislation issued by his predecessors and (2) the promulgation of a revised Roman Missal with an effective date of 30 November 1969. *Summorum Pontificum*'s claim that the 1962 *editio typica* of the Roman Missal was never

⁷² PAUL VI, Apostolic Constitution on the Roman Missal *Missale Romanum*, 3 April 1969, in *AAS*, 61 (1969), pp. 217-222, English translation in *DOL*, n. 202, pp. 458-461.

⁷³ SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the obligatory nature of the Roman Missal of Paul VI *Conferentiarum Episcopatum*, 28 October 1974, in *Notitiae*, 10 (1974), p. 353, English translation in *DOL*, n. 219, p. 549.

⁷⁴ Certain exceptions to the norm were permitted to allow the celebration of Mass according to the 1962 Missal: provisions for elderly and infirm priests, the circular letter *Quattuor abhinc annos* granting diocesan bishops the faculty to permit it, and the apostolic constitution *Ecclesia Dei* which urged a wide and generous application of the provisions of *Quattuor abhinc annos*. These provisions will be dealt with below in section 3.3.

abrogated requires careful attention in light of the aforementioned. This issue will be considered in the following chapter.

3.2.3 - Summary

An underlying premise of all opposition to post-conciliar liturgical reform – whether it be questions of interpretation of *Sacrosanctum concilium* or challenges to magisterial authority – concerns faithfulness to tradition. Benedict XVI, in an address to the Roman Curia, addressed this concern by identifying two ways in which the Second Vatican Council can be interpreted. The first, the hermeneutics of discontinuity and rupture,

risks ending in a split between the preconciliar church and the postconciliar church. It asserts that the texts as such do not yet express the true spirit of the council. It claims that they are the result of compromises in which, to reach unanimity, it was necessary to keep and reconfirm many old things that are now pointless [] Precisely because the texts would only imperfectly reflect the true spirit of the council and its newness, it would be necessary to go courageously beyond the texts and make room for the newness in which the council's deepest intention would be expressed, even if it were still vague.⁷⁵

For those opposed to them, the liturgical reforms introduced following the Council were the product of precisely this hermeneutic.

The second method of interpretation identified by Benedict XVI, the hermeneutics of continuity and reform, is expressed by John XXIII's desire that the Second Vatican Council "transmit the doctrine, pure and integral, without any attenuation or distortion." Furthermore, he states that "our duty is not only to guard this precious treasure, as if we were concerned only with antiquity, but to dedicate ourselves with an earnest will and without fear to that work which our era demands of us, pursuing thus the path which the Church has followed for twenty centuries."⁷⁶ Thus, if the proper hermeneutic guides the

⁷⁵ BENEDICT XVI, Address to the Roman Curia, 22 December 2005, in *Origins*, 35 (2005-2006), p 536.

⁷⁶ JOHN XXIII, Allocution at the commencement of the Second Vatican Council *Gaudet mater Ecclesia*, 11 October 1962, in *AAS*, 54 (1962), pp. 786-796, English translation in W. ABBOTT (gen. ed.), *The Documents of Vatican II*, Piscataway, N.J., New Century Publishers, 1966, p. 715.

interpretation and implementation of the Second Vatican Council, “it can be and can become increasingly powerful for the ever necessary renewal of the church.”⁷⁷

These tensions between conflicting keys of interpretation were clearly present when the revised *Missale Romanum* was promulgated in 1969. Efforts were made to ensure that the revised Missal was seen as a faithful expression of the Church’s liturgical tradition. Paul VI made explicit comparisons between the reforms introduced by Pius V in 1570, as mandated by the Council of Trent, and the reforms that he himself was introducing in obedience to the Second Vatican Council. The “hermeneutics of continuity” was also given considerable attention in the *General Instruction of the Roman Missal* which recalls, among other things, its faithfulness to the “tradition of the Fathers.” This expression was drawn deliberately from Pius V’s apostolic constitution *Quo primum* by which he promulgated the *Missale Romanum* of 1570. The current *General Instruction of the Roman Missal*, nn. 6 and 9 notes:

From the fact that the same words are used it can be seen how both *Roman Missals*, although separated by four centuries, embrace one and the same tradition. Furthermore, if the inner elements of this tradition are reflected upon, it also becomes clear how outstandingly and felicitously the older *Roman Missal* is brought to fulfillment in the new. [. . .] For this reason, the “norm of the holy Fathers” requires not only the preservation of what our immediate forebears have passed onto us, but also an understanding and a more profound study of the Church’s entire past and of all the ways in which her one and only faith has been set forth in the quite diverse human and social forms prevailing in the Semitic, Greek, and Latin areas. Moreover, this broader view allows us to see how the Holy Spirit endows the People of God with a marvelous fidelity in preserving the unalterable deposit of faith, even amid a very great variety of prayers and rites.

Despite accusations to the contrary, it remains clear the liturgical reforms following the Council were perceived by the Holy See to be in faithful compliance of not only *Sacrosanctum concilium* but of the entire liturgical tradition of the Latin Church.⁷⁸

⁷⁷ BENEDICT XVI, Address to the Roman Curia, 22 December 2005, in *Origins*, 35 (2005-2006), p 539.

⁷⁸ John Paul II confirmed this point on the twenty-fifth anniversary of *Sacrosanctum concilium*. “The reform of the rites and the liturgical books . . . was undertaken in accordance with the conciliar principles of fidelity to tradition and openness to legitimate development, and so it is possible to say that the reform of the liturgy is strictly traditional and in accordance with ‘the ancient usage of the holy fathers’” (JOHN PAUL II,

The preceding has attempted to classify the principal objections to the post-conciliar liturgical reform for the purpose of providing an appropriate context in which to situate attachment to earlier liturgical forms. Although attention has focused almost exclusively on those opposed to certain aspects of the liturgical reform, we would be remiss to neglect mention of those who remained sincerely attached to the earlier liturgical rites on the basis of devotion and genuine piety. In practice, this distinction is often difficult to identify, as opposition to post-conciliar liturgical reform and adherence to earlier liturgical rites typically coalesce, but it cannot be discounted.⁷⁹

Our purpose in identifying the principal objections to the liturgical reform is done not so much as to defend or rebuke such claims but to provide a context in which to consider the various provisions granted for the continued use of the 1962 *Missale Romanum* and ultimately *Summorum Pontificum* itself. Consideration, therefore, of the entire spectrum of responses in the immediate post-conciliar period – including those motivated by a genuine attachment to the earlier liturgical rites – is necessary to accomplish this task. It is to the provisions for the continued use of the 1962 *Missale Romanum* that we now turn.

3.3 – Provisions for Use of the 1962 *Missale Romanum*

Although both Paul VI's apostolic constitution *Missale Romanum* and the decree *Ordine Missae* of the Sacred Congregation of Rites prescribed that the revised *Ordo Missae* was to be used beginning on the First Sunday of Advent, 30 November 1969, almost immediately exceptions to this norm were made. The second part of this chapter will trace

Apostolic letter on the twenty-fifth anniversary of *Sacrosanctum concilium*, *Vicesimus quintus annus*, 4 December 1988, in *AAS*, 81 [1989], pp 897-918, English translation in *Origins*, 19 [1989-1990], pp 19)

⁷⁹ This distinction was recently made by Benedict XVI in his letter to bishops accompanying *Summorum Pontificum* “Many people who clearly accepted the binding character of the Second Vatican Council and were faithful to the pope and the bishops nevertheless also desired to recover the form of the sacred liturgy that was dear to them” (See BENEDICT XVI, Letter to bishops, p 133)

these exceptions in a chronological manner and describe the nature of the provisions which existed for the continued use of the 1962 *Missale Romanum*. The provisions considered include: (1) the exceptions for elderly and infirm priests, (2) the 1971 indult for England and Wales, (3) the 1984 circular letter of the Congregation for Divine Worship *Quattuor abhinc annos*, and (4) the 1988 apostolic letter *motu proprio Ecclesia Dei*. These provisions vary considerably in juridic nature, which we will analyze after the description of each provision.

3.3.1 – Exceptions for Elderly and Infirm Priests

By 20 October 1969, three parts of the revised Missal had appeared, namely, (1) the *Instructio generalis Missalis Romani*, (2) the *Ordo Missae*, and (3) the *Ordo lectionum Missae*. As the entire *Missale Romanum* was not yet complete, an instruction issued by the Sacred Congregation for Divine Worship acknowledged these delays and proposed a gradual implementation, depending upon the availability of liturgical texts.⁸⁰ The Latin text of the Order of Mass could be used from the date indicated in the decree of promulgation noted above (n. 1). Once vernacular translations were available, individual conferences of bishops were to fix a date on which the use of the new Order of Mass would become obligatory, a date which was to be no later than 28 November 1971 (n. 7). The same provision existed for use of the Lectionary for Mass (n. 15), yet it was permissible *ad interim* to use the order of readings in the former Roman Missal until such a time that the revised Lectionary was prepared in a vernacular translation (n. 17). The other Latin texts of the Roman Missal could be used as soon as they were available (n. 9). Similarly, conferences of bishops were to prepare vernacular translations.

⁸⁰ SACRED CONGREGATION FOR DIVINE WORSHIP, Instruction on the gradual carrying out of the Apostolic Constitution *Missale Romanum, Constitutione Apostolica*, 20 October 1969, in *AAS*, 61 (1969), pp 749-753, English translation in *DOL*, n 209, pp 534-537

3.3.1.1 – Provision for Elderly and Infirm Priests

Once the vernacular translations of the *Missale Romanum* were completed, the conferences of bishops were to set a date when the texts of the new Roman Missal would become obligatory (n. 14), except in the following situation:

Elderly priests who celebrate Mass without a congregation and who might encounter serious difficulty in taking up the new Order of Mass and the new texts of the Roman Missal and Lectionary for Mass, may, with the consent of their Ordinary, keep to the rites and texts now in use (n. 19).

A notification from the Sacred Congregation for Divine Worship, following the promulgation of the *Missale Romanum*,⁸¹ provided further clarification on the exception specified above.

Continued use, in whole or in part, of the *Missale Romanum* in the 1962 *editio typica*, as amended by the 1965 and 1967 decrees and of the *Breviarium Romanum* formally in use is allowed, with the consent of the Ordinary and only in celebrations without a congregation, for all those who because of their advanced years or illness find serious difficulties in using the new Order of Mass in the Roman Missal, the Lectionary for Mass, or the book of the liturgy of the hours (n. 3).⁸²

The exception refers to amendments which occurred to correspond with the directives of *Sacrosanctum concilium* and the two instructions issued by the Sacred Congregation for Rites for the implementation of the Constitution on the Liturgy.⁸³ It was possible for ordinaries, therefore, to grant permission for continued use of the 1962 *editio typica* of the *Missale Romanum* for elderly and infirm priests, provided that the amendments lawfully introduced in 1965 and 1967 were observed. Likewise, permission could only be granted for celebrations without a congregation. To remove any source of confusion, a notification from the Sacred

⁸¹ SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the first *editio typica* of the *Missale Romanum*, *Celebrationes eucharisticae*, 26 March 1970, in *AAS*, 62 (1970), p. 554, English translation in *DOL*, n. 213, p. 543.

⁸² SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the Roman Missal, the book of the Liturgy of the Hours, and the Calendar *Instructio de Constitutione*, 14 June 1971, in *AAS*, 63 (1971), pp. 712-715, English translation in *DOL*, n. 216, p. 545.

⁸³ SACRED CONGREGATION FOR RITES, First instruction on the orderly carrying out of the sacred liturgy *Inter oecumenici*, 26 September 1964, in *AAS*, 56 (1964), pp. 877-900, English translation in *CLD*, 6, pp. 73-99; *idem*, Second instruction on the orderly carrying out of the Constitution on the Liturgy *Tres abhinc annos*, 4 May 1967, in *AAS*, 59 (1967), pp. 442-448, English translation in *CLD*, 6, pp. 131-137.

Congregation for Worship specified that once a conference of bishops decreed that a translation of the Roman Missal, or any part of it, was obligatory in a territory, Mass – whether in Latin or in the vernacular – may be celebrated lawfully only according to the rite of the Roman Missal promulgated by Pope Paul VI on 3 April 1969. The notification refers directly to the exception for elderly and infirm priests noted above, yet specifies that ordinaries cannot grant permission for use of the 1962 *Missale Romanum*, as amended in 1965 and 1967 to correspond to the directives of *Sacrosanctum concilium*, for the celebration of Mass with a congregation.⁸⁴

3.3.1.2 – Juridic Nature of Provision

The 1917 Code contained no provision for Roman dicasteries to issue general decrees and instructions. The authority for such documents was provided by Pope Benedict XV in his *motu proprio Cum iuris canonici*:

The Sacred Roman Congregations shall hereafter enact no *new General Decrees*, unless some grave necessity of the Universal Church requires it. Their ordinary function in this matter will therefore be not only to see that the prescripts of the Code are religiously observed, but also to issue *Instructions* as need arises, whereby those prescripts may be more fully explained and appropriately enforced. These documents are to be drawn up in such a manner that they shall not only be in reality explanations of and complements to the canons, but also that they may be clearly seen as such; and therefore it will be very helpful to cite the canons themselves in the text of these documents.⁸⁵

Before the 1983 Code, instructions served a similar function, namely, to (1) explain the prescripts of the law more fully and (2) urge their observance. The description provided above indicates that instructions are subservient to law and are provided to explain the prescripts of law, not to derogate from them.

⁸⁴ SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the obligatory nature of the Roman Missal of Paul VI *Conferentiarum Episcopatum*, 28 October 1974, in *Notitiae*, 10 (1974), p. 353, English translation in *DOL*, n. 219, p. 549.

⁸⁵ BENEDICT XV, Apostolic letter *motu proprio* creating the Code Commission and the methods of making amendments to the Code *Cum iuris canonici*, 15 September 1917, in *AAS*, 9 (1918), pp. 483-484, English translation in *CLD*, 1, pp. 55-57.

The purpose of the instruction *Constitutione Apostolica* was to provide direction on the gradual carrying out of the Apostolic Constitution *Missale Romanum* – the most solemn form of legislation issued by the Pope in his own name – in a timely and orderly manner. This instruction, therefore, serves to explain and urge the observance of the law, that is, the Apostolic Constitution *Missale Romanum* of Pope Paul VI. Similarly, the purpose of the notification *Instructione de Constitutione* was to provide directives for the use of the *Missale Romanum*, *Liturgia Horarum*, and the *Calendarium Romanum* for the years 1972 and 1973. The notification provided practical norms for the implementation of the laws which promulgated the revised Liturgy of the Hours and the General Roman Calendar.⁸⁶

The restrictions placed upon the congregations of the Roman Curia by Pope Benedict XV vis-à-vis the issuing of instructions were often ignored. As J. Huels notes, during the decade following the Second Vatican Council, “instructions, directories, and other administrative documents routinely derogated from universal laws in order to expedite the needed reforms.”⁸⁷ Despite their juridic nature, both the instruction *Constitutione Apostolica* and the notification *Instructione de Constitutione* derogated from the law, that is, the Apostolic Constitution *Missale Romanum* of Pope Paul VI, which approved the revised *Missale Romanum* for general and exclusive use throughout the Latin Church. The exception for elderly and infirm priests to use the 1962 *editio typica* of the *Missale Romanum*, as revised in 1965 and 1967, in addition to the *Breviarium Romanum*, with the consent of their Ordinary, is not found in the law which both documents serve to clarify and implement. By means of these documents,

⁸⁶ PAUL VI, Apostolic Constitution promulgating the revised Liturgy of the Hours *Laudis canticum*, 1 November 1970, in *AAS*, 63 (1971), pp 527-535, English translation in *DOL*, n 424, pp 1086-1090, *idem*, Apostolic letter *motu proprio* approving the general norms for the liturgical year and the new General Roman Calendar *Mysterium paschalis*, 14 February 1969, in *AAS*, 61 (1969), pp 222-226, English translation in *DOL*, n 440, pp 1152-1154

⁸⁷ J M HUELS, “Interpreting an Instruction Approved *in forma specifica*,” in *Studia canonica*, 32 (1998), p 9, footnote 8

the Sacred Congregation for Divine Worship provides a new exception to the law obliging the use of the revised *Missale Romanum*. The change in law permits ordinaries to exempt elderly and infirm priests from the law which binds all others. With this exception, elderly and infirm priests are permitted the continued use, in whole or in part, of the 1962 Roman Missal, lawfully amended in 1965 and 1967, in celebrations without a congregation.⁸⁸ This provision is not a grant of a privilege – a singular administrative act – but an exception contained in the law itself.

3.3.2 – Provision for Use of the 1962 *Missale Romanum* in England and Wales

As a result of the direct intervention of Cardinal Heenan, the then-Archbishop of Westminster and chairman of the Episcopal Conference of England and Wales, Pope Paul VI was made aware of the petitions from “groups of converts and of elderly people” requesting use of the former Roman Missal on special occasions.⁸⁹ Archbishop A. Bugnini, former secretary of the *Consilium*, recalls that Pope Paul VI himself, in a handwritten letter,

⁸⁸ Incidentally, as noted above, the instruction *Constitutione Apostolica*, 20 November 1969, also derogated from the effective date of the revised *Missale Romanum* and granted conferences of bishops the faculty to extend the *vactio legis* until 28 November 1971.

⁸⁹ BUGNINI, *The Reform of the Liturgy*, pp. 297. Cardinal Heenan’s request was precipitated by an appeal from prominent individuals, such as Agatha Christie, Graham Greene, Malcolm Muggeridge, and Iris Murdoch. The petition, with fifty-seven signatories, was also published in *The Times* on 6 July 1971. This self-described “ecumenical and non-political” appeal wanted “to call to the attention of the Holy See, the appalling responsibility it would incur in the history of the human spirit were it to refuse to allow the Traditional Mass to survive, even though this survival took place side by side with other liturgical reforms.” It stated in part: “If some senseless decree were to order the total or partial destruction of basilicas or cathedrals, then obviously it would be the educated – whatever their personal beliefs – who would rise up in horror to oppose such a possibility. Now the fact is that basilicas and cathedrals were built so as to celebrate a rite which, until a few months ago, constituted a living tradition. We are referring to the Roman Catholic Mass [...] The rite in question, in its magnificent Latin texts, has also inspired a host of priceless achievements in the arts – not only mystical works, but works by poets, philosophers, musicians, architects, painters and sculptors in all countries and epochs. Thus, it belongs to universal culture as well as to the churchmen and formal Christians. In the materialistic and technocratic civilisation that is increasingly threatening the life of mind and spirit in its original creative expression – the word – it seems particularly inhuman to deprive man of word-forms in one of their most grandiose manifestations.” The entire petition can be found at <http://www.latin-mass-society.org/themil.htm> (26 May 2010).

requested that the Sacred Congregation for Divine Worship provide a favourable response to Cardinal Heenan's request.⁹⁰

3.3.2.1 – Provision for England and Wales

The rescript, in virtue of special faculties granted to the Sacred Congregation for Divine Worship by Pope Paul VI on 30 October 1971, granted the following provision:

[...] it is permitted to the local Ordinaries of England and Wales to grant that certain groups of the faithful may on special occasions be allowed to participate in the Mass celebrated according to the rites and texts of the former Roman Missal. The edition of the Missal to be used on these occasions should be that published again by the decree of the Sacred Congregation of Rites (27 January 1965), and with the modifications indicated in the *Instructio altera* (4 May 1967) [.]⁹¹

The rescript continued by specifying that permission may be granted “provided that groups make the request for reasons of genuine devotion, and provided that the permission does not disturb or damage the general community of the faithful.” The permission, therefore, is limited to certain groups and on special occasions. The rescript warned that the use of the Order of Mass of the 1962 *Missale Romanum* should not be “a sign or cause of disunity” in the community. For this reason, the rescript admonishes bishops to adopt a uniform policy to be applied equally throughout the entire episcopal conference.

In addition to the provision above for well-intentioned groups of the faithful requesting use of the former rite, the rescript contains an additional provision for priests. The rescript indicates: “Priests who on occasion wish to celebrate Mass according to the above-mentioned edition of the Roman Missal may do so by consent of their ordinary and in accordance with the norms given by the same.” By the rescript of the Sacred Congregation for Divine Worship, therefore, an ordinary in England and Wales could permit a priest to celebrate Mass according to the 1962 *Missale Romanum*, as revised in 1965 and 1967.

⁹⁰ BUGNINI, *The Reform of the Liturgy*, pp. 297-298.

⁹¹ SACRED CONGREGATION FOR DIVINE WORSHIP, Rescript permitting the use of the 1962 Missal in England and Wales, 5 November 1971, in *CLD*, 10, pp. 147-148.

Furthermore, local ordinaries could permit groups of the faithful, on special occasions, to attend Mass celebrated according to the same rite. In all other situations, the *Missale Romanum* approved by Pope Paul VI remained the normative expression of the Church's Eucharistic liturgy in England and Wales.

The bishops of England and Wales were attentive to the intention of the indult, and they reminded the faithful of the exceptional nature of this indult:

This permission was given on the strict condition that all danger of division would be avoided. For devotional reasons a group may be given leave to have a Mass in this rite. At all parish and community Masses, however, the new rite is obligatory, whether it is in Latin or English [] In company with the bishops of the whole Church the Episcopal Conference of England and Wales declares its loyalty to the Successor of St. Peter and trusts that this Statement will make it clear to priests and people that Holy Mass must be celebrated according to the rite of the Roman Missal of Pope Paul VI.⁹²

Paradoxically, a similar request to use the *Missale Romanum* of 1962 from Mgr Plourde, then-Archbishop of Ottawa, received an unfavourable response from the same congregation. Instead, Mgr Plourde was encouraged to remind the faithful of their grave obligation of obedience to faithfully accept the directives of the Church.⁹³

3.3.2.2 – Juridic Nature of Provision

The word “indult” is often employed as an alternative term for other concepts in canon law. As J. Huels notes, an indult “lacks its own unique juridic identity. It may be some kind of a favor, be it a dispensation, privilege, permission, or other favor, especially when the precise nature of the favor is unknown to the person requesting or granting it.”⁹⁴ The

⁹² EPISCOPAL CONFERENCE OF ENGLAND AND WALES, Statement on the new Roman Missal, 24 April 1975, in *Notitiae*, 11 (1975), pp. 143-144.

⁹³ SACRED CONGREGATION FOR DIVINE WORSHIP, Private response to Archbishop Plourde's request for permission to allow use of the 1962 Missal within the Archdiocese of Ottawa, 24 May 1974, in *La Documentation catholique*, 73 (1976), p. 242.

⁹⁴ J.M. HUELS, “Privilege, Faculty, Indult, Derogation: Diverse Uses and Disputed Questions,” in *The Jurist*, 63 (2003), p. 243. Another definition is provided by F. Morrisey: indults “are special favors granted to some physical or juridical person by the Holy See or some other competent ecclesiastical authority [...] they do not change the common law or modify its substance. They simply authorize a person or a body to act contrary to the law or beyond its prescriptions in view of special circumstance” (F.G. MORRISEY, *Papal and Curial*

difficulty with determining the precise juridic nature of this provision is the lack of a consistent use of terminology in the rescript itself.⁹⁵ The rescript was granted in English and refers to the provisions granted to the ordinaries of England and Wales interchangeably as both a “permission” and a “faculty.” Although the 1971 rescript of the Congregation for Divine Worship has been characteristically termed an “indult,” it is important to distinguish the faculty granted by the Congregation for Divine Worship from the authorization it permits. A brief excursus to differentiate the canonical concepts of “habitual faculty” and “privilege” is required before proceeding to an analysis of 1971 English indult.

3.3.2.2.1 – Habitual Faculties

Despite their frequent use, habitual faculties are not defined in either the 1917 or 1983 Codes of Canon Law. Under the 1917 Code, habitual faculties were considered a type of privilege (*CIC/17*, c. 66), but in the 1983 Code the placement of c. 132 and its treatment clearly indicate otherwise. A habitual faculty, like any faculty, is aptly described by J. Huels as “an ecclesiastical power or authorization necessary for performing lawfully an act of ministry or administration in the name of the Church.”⁹⁶ Faculties either grant the power of governance, frequently called jurisdictional faculties, or authorizations, that is, non-jurisdictional faculties. The sources of these faculties are either the law itself (*a iure*) or delegation from a person (*ab homine*) competent to grant the faculty. Under the 1983 Code, it is clear that habitual faculties are always delegated *ab homine* by means of a singular

Pronouncements: Their Canonical Significance in Light of the Code of Canon Law, 2nd edition revised and updated by M. THERIAULT, Ottawa, Faculty of Canon Law, Saint Paul University, 1995, p. 38).

⁹⁵ Questions were raised by the Council Fathers as to whether “privilege” itself was an antiquated institute, not in keeping with the modern age and the equality of all peoples. These same concerns were expressed during the redaction process for the 1983 Code of Canon Law. See A. MCCORMACK, *The Term “Privilege”: A Textual Study of its Meaning and Use in the 1983 Code of Canon Law*, Tesi Gregoriana, Serie Diritto Canonico 23, Rome, Editrice Pontificia Università Gregoriana, 1997, pp. 53-68. This may help explain the confused use of terminology and the reluctance to explicitly use the term “privilege.”

⁹⁶ J.M. HUELS, “Privilege, Faculty, Indult, Derogation: Diverse Uses and Disputed Questions,” in *The Jurist*, 63 (2003), p. 229.

administrative act, that is, an act of executive power of governance (c. 132, §1). As the term implies, habitual faculties are distinguished from faculties in general by the fact that they can be used not only once or in a specified circumstance but rather on a regular, on-going basis. It is frequently referred to as “general delegation”⁹⁷ (cf. e.g. *CIC/83*, cc. 971, 1111).

3.3.2.2.2 – Privileges

Privileges are given a more extensive treatment in both the 1917 and 1983 Codes of Canon Law, albeit with notable differences. The 1917 Code provides no definition. Instead, Suarez’s classic definition was often cited by commentators on the 1917 Code. Suárez defined a privilege as a private law which granted something particular (*lex privata aliquid speciale concedens*).⁹⁸ A privilege was considered a type of private law because (1) it is something stable; (2) it permits a certain objective norm of action for physical or juridic persons; and (3) it obliges third parties to respect the favour granted.⁹⁹ Although not all commentators would agree unanimously with the use of the term “private law,” a sufficient consensus existed acknowledging that privileges granted the right to do or omit something contrary to or apart from the law.¹⁰⁰ Cicognani, among others, divided privileges into those which were contained in the Code (*in Codice contenta*), such as privileges of clerics (cc.118-123), religious (cc. 613-625), cardinals (c. 239) and bishops (c. 349), and those existing outside the Code (*extra*

⁹⁷ *Ibid*, p. 232.

⁹⁸ F. SUAREZ, *De legibus*, Madrid, Consejo Superior de Investigaciones Científicas, 1971, vol. 8, c.1, n. 3.

⁹⁹ A G. CICOGNANI, *Canon Law*, second revised edition, authorized English version by J.M. O’HARA and F.J. BRENNAN, Westminster, MD, Newman Bookshop, 1934, p. 779.

¹⁰⁰ The principal difficulty with the term “private law” is that the very idea of a law presupposes a society or community for which a law is promulgated. For a consideration of the differences between a law and a privilege, see E. ROELKER, *Principles of Privileges according to the Code of Canon Law*, Canon Law Studies, n. 35, Washington, DC, Catholic University of America, 1926, pp. 20-21 For a detailed consideration of the term “private law” and opposition to its use, see A. MCCORMACK, *The Term ‘Privilege’: A Textual Study of Its Meaning and Use in the 1983 Code of Canon Law*, *Testi Gregoriana, Serie Diritto Canonico* 23, Rome, Editrice Pontificia Università Gregoriana, 1997, pp. 69-79 (=MCCORMACK, *The Term ‘Privilege’*).

Codicem existentia), that is, those which were granted by the competent authority. Privileges under the 1917 Code were acquired by direct grant of the competent authority, communication, legitimate custom, or prescription (c. 63, §1).

Of the canons on privileges in the 1983 Code (cc. 76-84), c. 76, §1 provides a completely new understanding of the juridical nature of a privilege.

A privilege is a favour given through a particular act to the benefit of certain physical or juridic persons; it can be granted by the legislator as well as by an executive authority to whom the legislator has granted this power.

The nature of this favour is the right to do or to omit from doing something that is contrary to the law (*contra ius*) or apart from the law (*praeter ius*). A privilege either exempts the recipient from the observance of some law to which others are bound, or it permits something about which the law is silent.¹⁰¹ Privileges are granted by a singular administrative act, that is, by means of a rescript (c. 59, §1). Since privileges in the 1983 Code are granted by a singular act, a privilege properly speaking is not a favour contained within the law itself. What Cicognani termed privileges *in Codice contenta* are now more properly called “faculties” or “rights” granted by the law, depending upon their precise juridic nature. By the grant of a privilege, one acquires a right of some kind (cf. c. 4), presumed to be perpetual unless the contrary is proven (c. 78, §1). Privileges are granted by the competent legislator or those with executive power to whom the legislator has granted this power (c. 76, §1). Despite this restriction, the act of granting privileges is an act of executive power of governance and not a legislative act.¹⁰²

¹⁰¹ For a helpful distinction between privileges and dispensations, see J.M. HUELS, “Privilege, Faculty, Indult, Derogation: Diverse Uses and Disputed Questions,” in *The Jurist*, 63 (2003), pp. 219-220.

¹⁰² This has been a disputed point, yet recent studies have decisively argued that the particular act of granting a privilege is a singular administrative act, that is, an act of executive power of governance. See *ibid*, pp. 220-225; MCCORMACK, *The Term “Privilege”*, pp. 275-292.

3.3.2.3 – Juridic Nature of Provision

The Congregation for Divine Worship delegated *ab homine* to all the bishops of England and Wales the power to permit the use of the 1962 *Missale Romanum*. This exceptional faculty should not be confused with the authorization it permits. The habitual faculty granted by the Congregation for Divine Worship, through special faculties it likewise received from the supreme pontiff, grants the recipients, namely ordinaries in England and Wales, the power to authorize the use of the 1962 *Missale Romanum*, without which such use is prohibited by law.¹⁰³ A diocesan bishop cannot grant a privilege contrary to the universal law, since he is not the legislator of that law (cf. *CIC/83*, c. 76, §1). Privileges contrary to universal law can only be granted by the pope, a college of bishops, and those with an appropriate mandate.

The 1971 indult, therefore, granted the habitual faculty empowering ordinaries to grant this privilege. Specifically, the Sacred Congregation for Divine Worship granted a habitual faculty to all local ordinaries of England and Wales. With this habitual faculty, these local ordinaries were permitted to grant “that certain groups of the faithful may on special occasions be allowed to participate in the Mass celebrated according to the rites and texts of the former Roman Missal.” The rescript also granted to ordinaries the habitual faculty to permit priests who, on occasion, wish to celebrate Mass according to the 1962 edition of the *Missale Romanum*.

¹⁰³ During the immediate post-conciliar period, the Roman Curia frequently derogated from the law by means of instructions in order to expedite the required reforms (see 3.3.1.2 above). A question may be raised as to whether the Congregation for Divine Worship delegated a habitual faculty or whether a particular law was made for England and Wales by means of this provision. A stronger argument can be made for a habitual faculty for the following reasons: (1) the response of the Congregation is in the form of rescript, that is, a response to a request (*CIC/83*, c. 59); (2) the necessary formularies for the promulgation of law are absent, such as the manner of promulgation and suspensive period (*CIC/17*, cc. 8-9; *CIC/83*, cc. 7-8).

What the Congregation for Divine Worship granted is a habitual faculty, that is, the delegated power to grant a privilege *contra legem*.¹⁰⁴ The Sacred Congregation for Divine Worship has not granted a privilege *contra legem* to the faithful but has delegated the habitual faculty to the ordinaries of England and Wales to do so according to their own discretion. Since it is a habitual faculty, the ordinary's successors in office also have it *ipso iure* (cf. CIC/17, c. 66, §2; CIC/83, c. 132, §2).

3.3.3 – *Quattuor abhinc annos*

Elsewhere, opposition to the liturgical reform mounted, led largely by the charismatic Mgr Marcel Lefebvre, archbishop emeritus of Tulle and Dakar. The revised Missal became a symbol of opposition to the liturgical reform and, more seriously, a rejection of the teachings of the Second Vatican Council. Pope Paul VI, in a letter to Mgr. Lefebvre, recognizes that his opposition was largely ecclesiological in nature:

What is indeed at issue is the question – which must truly be called fundamental – of your clearly proclaimed refusal to recognize, in its whole, the authority of the Second Vatican Council and that of the Pope. This refusal is accompanied by an action that is oriented towards propagating and organizing what must indeed, unfortunately, be called a rebellion. This is the essential issue, and it is truly untenable.¹⁰⁵

Confirmation that opposition to the liturgical reform was motivated by deeper ecclesiological concerns is evident in a survey conducted by the Sacred Congregation for the Sacraments and Divine Worship in 1980.¹⁰⁶ The survey concerned the use of the Latin in the Mass and requests for its use, in addition to questions concerning the implementation of the

¹⁰⁴ Since habitual faculties were considered a species of privileges under the 1917 Code (c. 66), the habitual faculty granted to the ordinaries of England and Wales can also be properly called a type of privilege, yet distinct from the privilege it enables the ordinaries to grant to the faithful requesting use of the earlier *Missale Romanum*.

¹⁰⁵ PAUL VI, Letter to Archbishop Marcel Lefebvre *Cum te*, 11 October 1976, in *Notitiae*, 12 (1976), pp. 417-427, English translation in *Origins*, 6 (1976-1977), pp. 416-420.

¹⁰⁶ SACRED CONGREGATION FOR THE SACRAMENTS AND DIVINE WORSHIP, *Investigation into the use of the Latin language in the Roman liturgy and the 'Tridentine' Mass*, 19 June 1980, in *Notitiae*, 17 (1981), pp. 589-611; partial English translation in *Origins*, 11 (1981-1982), pp. 556-559.

liturgical reform and opposition experienced as a result. The results revealed that the “problem of the Tridentine Mass” was not a concern of the entire Church but only for a small, yet active and vocal, minority. Members of these groups regarded themselves as the bearers of truth and orthodoxy, in contrast to the Roman Church, which had supposedly fallen into heresy since the Second Vatican Council. Difficulties with these groups were reported in only certain parts of the world, namely, some countries in Europe, America, and Oceania. Overwhelmingly, ninety-eight percent of the bishops surveyed were strongly opposed to any eventual authorisation of the use of the former Missal. Such authorisation, it seems, would be interpreted by these vocal groups as a vindication of their views, further perpetuating the difficulties already experienced in various local churches.

While the precise motivation behind *Quattuor abhinc annos* remains unknown, especially in light of the results of the survey noted above, the continuing difficulties between the Holy See and Mgr Lefebvre and the Society of Pope Pius X are the likely cause. The Priestly Society of St. Pius X (SSPX), erected as a pious union *ad experimentum* in the Diocese of Lausanne, Geneva, and Fribourg on 1 November 1970, was formally suppressed only five years later on 6 May 1975 in response to growing tensions between the society and problematic statements made by Mgr. Lefebvre.¹⁰⁷ This occurred by means of a faculty granted by the Sacred Congregation for Religious¹⁰⁸ and with the full support of a special *ad hoc* commission of Cardinals established by Paul VI to conduct an extensive investigation

¹⁰⁷ The original decree of erection is photostatically reproduced in Y. MONTAGNE, *L'Évêque suspendu: Mgr. Lefebvre*, Rome, Catholic Laymen's League, 1977, p. 27. The notification of suppression includes an explicit revocation of the acts of Mgr. Mamie's predecessor. See P. MAMIE, Letter to Mgr. Lefebvre communicating his decision to suppress the SSPX, 6 May 1975, in *La Documentation catholique*, 72 (1975), p. 615.

¹⁰⁸ SACRED CONGREGATION FOR RELIGIOUS, Letter to Mgr. Mamie, Bishop of Lausanne, Geneva, and Fribourg, concerning the suppression of the SSPX, 25 April 1975, in *La Documentation catholique*, 72 (1975), pp. 613-614. It is not entirely clear why a faculty was required if, as the decree of erection states, the SSPX was erected as a pious union. In virtue of the law itself, a local ordinary, for a grave cause, can suppress an association erected by himself or his predecessor (cf. CIC/17, c. 699, §1).

into this matter which included, among other things, a canonical visitation of the seminary established in Ecône.¹⁰⁹

Mgr Lefebvre appealed the decision to suppress the SSPX to the Apostolic Signatura. The Apostolic Signatura responded quickly by rejecting Mgr. Lefebvre's appeal "after having noticed that, from the documents appended to the recourse, it is clear that the impugned action is nothing more than the execution of the decisions passed by a Special Commission of three Cardinals and approved in *forma specifica* by the Supreme Pontiff."¹¹⁰ The fact that the decision had been approved in *forma specifica* rendered the Apostolic Signatura absolutely incompetent to pass judgement on the proposed recourse in virtue of CIC/17, c. 1556, that is, the *Prima Sedes a nemine indicatur*.¹¹¹ As a result of this approval in *forma specifica*, Mgr Lefebvre was left with no avenue for further recourse.

Ignoring the fact that the SSPX had been juridically suppressed and despite a special mandate given by the Supreme Pontiff to abstain from conferring any order, on 29 June 1976 Mgr Lefebvre proceeded to illicitly ordain seminarians to the priesthood. In accordance with CIC/17, c. 2373, Mgr Lefebvre incurred a suspension *ab ordinum collatione*, that is, suspension from conferring orders for one year for violation of CIC/17, c. 955, requiring every candidate to sacred orders to be ordained by his own proper bishop or with legitimate

¹⁰⁹ SPECIAL AD HOC COMMISSION OF CARDINALS, Letter to Mgr. Lefebvre, 6 May 1975, in *La Documentation catholique*, 72 (1975), p. 614. Members of this special *ad hoc* commission included Gabriel-Marie Cardinal Garrone, the then-Prefect of the S.C. for Catholic Education and president of the Cardinalatial commission, John Cardinal Wright, the then-Prefect of the S.C. for the Clergy, and Arturo Cardinal Tabera, the then-Prefect of the S.C. for Religious and Secular Institutes. A detailed chronology of events concerning this commission and Mgr. Lefebvre is provided in *La Documentation catholique*, 72 (1975), p. 612.

¹¹⁰ SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA, Decree in response to Mgr. Lefebvre's appeal, 10 June 1975, in *Periodica*, 65 (1976), pp. 183-185, English translation in *CLD*, 8, pp. 456-457.

¹¹¹ Pope Paul VI confirmed his personal involvement in this decision: «La commission cardinalice que nous avons instituée nous a régulièrement et scrupuleusement rendu compte de son travail. Enfin, les conclusions qu'elle nous a proposées, nous les avons faites nôtre toutes et chacune, et nous avons personnellement ordonné leur entrée en vigueur immédiate.» See PAUL VI, Letter to Mgr. Lefebvre, 29 June 1975, in *La Documentation catholique*, 73 (1976), pp. 33-34.

dimissorial letters received from him.¹¹² In addition to the suspension *ab ordinum collatione* incurred in virtue of the law itself, the Sacred Congregation of Bishops issued an official monition, imploring Mgr. Lefebvre to change his attitude, to ask pardon humbly of the Holy Father, and to repair the spiritual damage inflicted on the young men ordained and the scandal caused to the people of God.¹¹³ Mgr Lefebvre's response was less than satisfactory,¹¹⁴ and the Sacred Congregation for Bishops responded swiftly by imposing a suspension *a divinis*.¹¹⁵ The activities of the SSPX and of Mgr. Lefebvre himself nevertheless continued despite their irregular canonical status.

3.3.3.1 – Provisions of *Quattuor abhinc annos*

Within this troubled context, John Paul II elected to provide an additional faculty to bishops whereby all diocesan bishops were permitted to allow those who are explicitly named in a petition submitted to him to celebrate Mass according to the 1962 *editio typica* of the Roman Missal.¹¹⁶ The following norms were to be observed:

- (1) There must be unequivocal and public evidence that the priest and people petitioning accept the lawful force and doctrinal soundness of the Roman Missal of Pope Paul VI;

¹¹² The fact of this suspension was confirmed in a press release from the Holy See. See *La Documentation catholique*, 73 (1976), p. 715.

¹¹³ SACRED CONGREGATION FOR BISHOPS, Canonical *monitum* to Mgr Lefebvre, 6 July 1976, photostatically reproduced in Y. MONTAGNE, *L'Evêque suspens. Mgr Lefebvre*, Rome, Catholic Laymen's League, 1977, pp. 210-212.

¹¹⁴ M. LEFEBVRE, Letter to Pope Paul VI, 17 July 1976, in *La Documentation catholique*, 73 (1976), pp. 811-812.

¹¹⁵ SACRED CONGREGATION OF BISHOPS, Notification of suspension *a divinis* to Mgr Lefebvre, 22 July 1976, photostatically reproduced in Y. MONTAGNE, *L'Evêque suspens. Mgr Lefebvre*, Rome, Catholic Laymen's League, 1977, pp. 215-216.

¹¹⁶ CONGREGATION FOR DIVINE WORSHIP, Circular Letter on the use of the 1962 Roman Missal *Quattuor abhinc annos*, 3 October 1984, in *Communicationes*, 17 (1985), pp. 3-4, English translation in *CLD*, 11, pp. 3-4.

- (2) The Mass must take place exclusively for the petitioner(s); the celebration must take place in a designated church or oratory (but not in parish churches, unless permitted by the bishop in exceptional circumstances);
- (3) The 1962 Missal must be used, and the Mass must be celebrated in Latin;
- (4) There is to be no intermingling of the rites or texts of 1962 Missal and the Missal of Paul VI;
- (5) Each bishop is to inform the Congregation for Divine Worship of the authorisations granted and the results of their application.

Quattuor abhinc annos, unlike the exceptions for elderly and infirm priests and the provisions of the 1971 English indult noted above, permits the use of the 1962 *editio typica* of the *Missale Romanum* without observing the lawful adaptations introduced in 1965 and 1967. Furthermore, the faculty is granted to diocesan bishops rather than to ordinaries who had been granted the habitual faculty according to the 1971 indult for England and Wales.

Although *Quattuor abhinc annos* required that those who benefit from the privilege of celebrating Mass according to the 1962 Missal have no ties with those who call into doubt “the lawful force and doctrinal soundness” of the Roman Missal promulgated in 1970, it permits the celebration of Mass according to the 1962 Missal, which hitherto had only been celebrated according to the lawful amendments introduced in 1965 and 1967 to correspond to directives of *Sacrosanctum concilium*. As a result, the new provisions of *Quattuor abhinc annos* were not universally accepted. Representatives of the English-speaking episcopal conferences, under the presidency of Archbishop Denis Hurley of Durban, expressed “grave concern, regret and dismay” at news of the indult.¹¹⁷ The resolution argues that the indult

¹¹⁷ D. HURLEY, Letter from representatives of English-speaking episcopal conferences concerning the provisions of *Quattuor abhinc annos*, 28 October 1984, in *Origins*, 14 (1984-1985), pp. 334-335. It should be noted that the division of the Congregation into two separate dicasteries on 2 August 1984 was seen as a source of

seems to support those who have resisted the liturgical renewal and demonstrates a lack of concern for those who wholeheartedly embraced the desires of the council – often at great personal cost and with great difficulty. The resolution asserts, further, that *Quattuor abhinc annos* violated the collegial sense of the worldwide episcopate, ninety-eight percent of whom did not consider the “problem of the Tridentine Mass” a matter requiring further concessions from the Holy See, a clear allusion to the extensive survey conducted by the Sacred Congregation for the Sacraments and Divine Worship in 1980.

3.3.3.2 – Juridic Nature of Provision

Quattuor abhinc annos refers to Pope John Paul II’s desire to grant “to diocesan bishops the faculty of using an ‘indult’ on behalf of the priests and faithful requesting use of the 1962 *Missale Romanum*.” The “indult” contained in *Quattuor abhinc annos* is not a privilege, since a privilege is a favour granted for the benefit of certain physical or juridic persons through a singular administrative act (c. 76, §1). In this case, the persons to benefit from the privilege are only determined by the diocesan bishop after they petition him for the favour to use the 1962 *Missale Romanum*. It could be argued that what is granted here resembles that of the 1971 English indult, that is, the grant of a habitual faculty to all diocesan bishops to grant a privilege *contra legem universalem*. As the universal law requires the use of the Roman Missal, as revised and duly promulgated by Pope Paul VI, the diocesan bishop could not grant a privilege for the use of the 1962 *Missale Romanum* since he is not the legislator of universal laws (cf. c. 76, §1). The habitual faculty granted by Pope John Paul II would have permitted

the problem: “It was resolved that the recent division of the Congregation of the Sacraments and Divine Worship posed a potential threat to the ongoing work of liturgical renewal because of a seeming return to a pre-conciliar understanding of the sacraments” For an example of additional difficulties with this provision, see F HARRISON, Letter to the faithful of the Diocese of Syracuse, NY, on the celebration of the Tridentine Mass, 28 December 1985, in *Origins*, 15 (1985-1986), pp. 553-555.

diocesan bishops the power to grant this privilege, despite the fact that they were not the legislator of that law

This interpretation is problematic on one account. The grant of a habitual faculty is a singular administrative act, directed to a determinate person (cf. c. 76, §1). This would have required each diocesan bishop to have received a letter by which this faculty was granted by the supreme pontiff. What more likely occurred, therefore, was a legislative act by which the pope granted this faculty to diocesan bishops.¹¹⁸ This change in law, likely made orally, was communicated by the Congregation for Divine Worship by means of *Quattuor abhinc annos*. What was granted by the pope to diocesan bishops was not a habitual faculty but a new faculty by law. The change in law gave diocesan bishops a new faculty by law in virtue of their office, namely, the faculty to grant a privilege to priests and other members of the faithful the use the 1962 Roman Missal.

3.3.4 – *Motu proprio Ecclesia Dei*

Despite a formal canonical warning, Mgr Lefebvre, founder of the Priestly Society of St. Pius X, proceeded to ordain four bishops without a pontifical mandate. In virtue of c. 1382, both the consecrating bishop and those receiving consecration from him incurred a *latae sententiae* excommunication reserved to the Apostolic See. The effects of excommunication are specified in c. 1331, §1. Once the Congregation for Bishops declared that Mgr Lefebvre and the four bishops he had consecrated incurred this excommunication, the canonical consequences of the excommunication were further modified (c. 1331, §2).¹¹⁹

¹¹⁸ A change in law made orally by the pope is usually communicated by a rescript *ex audentia Sanctissimi*. See A VIANA, “Las competencias de la Curia romana sobre la constitución de circunscripciones y le nombramiento de obispos,” in *Ius canonicum*, 47 (2007), pp 241-251, HUELS, *Liturgy and Law*, p 87

¹¹⁹ CONGREGATION FOR BISHOPS, Decree declaring the excommunication *latae sententiae* of Mgr Lefebvre and those he consecrated bishop, 1 July 1988, English translation in *CLD*, 12, pp 804-805

On 2 July 1988, John Paul II, through an apostolic letter *motu proprio*, manifested his will to facilitate ecclesial communion with those faithful attached to an earlier liturgical and disciplinary form of the Latin tradition.¹²⁰ Although the *motu proprio Ecclesia Dei* contains no new provision for the use of the 1962 *Missale Romanum*, “it is necessary that all the pastors and the other faithful have a new awareness, not only of the lawfulness but also the richness for the church of a diversity of charism, traditions of spirituality and apostolate, which also constitutes the beauty of unity in variety” (n. 5, a). The *motu proprio* encourages bishops to respect the feelings of all those who are attached to the Latin liturgical tradition through “a wide and generous application” of the provisions in *Quattuor abhinc annos* (n. 6, c). To facilitate ecclesial communion with the former adherents of Mgr. Lefebvre and “to guarantee respect for their rightful aspirations” (n. 5, c), Pope John Paul II established the Pontifical Commission *Ecclesia Dei*. To achieve these ends, the Pontifical Commission was granted special faculties and issued guidelines to assist bishops with the implementation of the *motu proprio Ecclesia Dei*.

3.3.4.1 – Faculties of the Pontifical Commission *Ecclesia Dei*

Shortly after its establishment, John Paul II granted special faculties to the Pontifical Commission *Ecclesia Dei* to accomplish the particular task entrusted to it which required acts that go beyond the customary order of law.¹²¹ As such, the Pontifical Commission was given the faculty to permit priests the use of the 1962 *Missale Romanum* after having forewarned

¹²⁰ JOHN PAUL II, Apostolic Letter *motu proprio Ecclesia Dei*, 2 July 1988, in *AAS*, 80 (1988), pp 1495-1498, English translation in *CLD*, 12, pp 805-808

¹²¹ PONTIFICAL COMMISSION ECCLESIA DEI, *Rescriptum ex audientia Sanctissimae* concerning faculties entrusted to the Pontifical Commission, 18 October 1988, in *AAS*, 82 (1990), pp 533-534, English translation in *CLSGBI Newsletter*, 77 (1989), pp 19-20

their diocesan bishop; no consultation *per se* was required (n. 1).¹²² To address matters concerning the former adherents of Mgr. Lefebvre and members of the Priestly Society of St. Pius X, the Pontifical Commission was given the faculties to dispense from the irregularities to the exercise of orders received mentioned in c. 1044, §1, 1° and 2° (n. 2, a), to grant a *sanatio in radice* to marriages lacking canonical form (cf. c. 1108) (n. 2, b), to erect the Priestly Fraternity of St. Peter as a society of apostolic life of pontifical right (n. 3, a), and to erect with the consent of the diocesan bishop a seminary of the Fraternity of St. Peter in the Diocese of Augsburg (n. 3, b). Foreseeing future opportunities for reconciliation, the Pontifical Commission was also granted the faculties to erect an institute of consecrated life or a society of apostolic life of pontifical right for communities committed to the use of former liturgical and disciplinary forms (nn. 4-5). Until otherwise determined, the Pontifical Commission *Ecclesia Dei* was to exercise vigilance over these same societies and associations in the name of the Holy See (n. 6).

3.3.4.2 – Guidelines of the Pontifical Commission *Ecclesia Dei*

To ensure a proper implementation of *Ecclesia Dei*, and to assist bishops in their pastoral ministry, the Pontifical Commission *Ecclesia Dei* provided guidelines in 1991 to ensure a “wide and generous” application of the existing provisions.

- (1) There is no reason why celebrations of Mass according to the 1962 *Missale Romanum* cannot be celebrated in parish churches, despite the restrictions placed on this in *Quattuor abhinc annos*.

¹²² Initially, *Ecclesia Dei* was inclined to grant a *celebret* without previously consulting the ordinary concerned. It seems that this practice was quickly altered and requests which were sent directly to *Ecclesia Dei* were then forwarded to the priest’s ordinary so that the *celebret* would be granted not by the *Ecclesia Dei* Commission but by the ordinary of the priest requesting use of the earlier Missal (see W.A. SCHUMACHER and L. JARRELL [eds.], *Roman Replies and Advisory Opinions 1990*, Washington, DC, Canon Law Society of America, 1990, pp. 1-5). In an interview Cardinal Mayer admitted that he changed the problematic practice of granting *celebrets* without consulting with concerned bishops and religious superiors (see S.M. PACI, “Paul Augustin Mayer: Cardinale ‘anti-scisma,’” in *30 Giorni*, [June 1991], pp. 60-62.)

- (2) The frequency of celebrations according to the 1962 *Missale Romanum* will vary depending on the needs of the faithful. The Pontifical Commission *Ecclesia Dei* recommends that, in places where requests have been made, “a weekly Sunday and holy day Mass be scheduled in a central location and at a convenient time” for a trial basis of several months.
- (3) Celebrants of the 1962 *Missale Romanum* are to remind the faithful attending of their own “adherence to the legislation of the universal church and their acknowledgment of the doctrinal and juridical value of the liturgy as revised after the Second Vatican Council.” By attending celebrations authorized by the bishop, the faithful attached to the 1962 *Missale Romanum* manifest “a sign of good will and desire of full ecclesial communion.”
- (4) Although the Holy Father had provided the Pontifical Commission *Ecclesia Dei* with the faculty to grant the use of the 1962 *Missale Romanum* to all those who requested it, the guidelines encourage that such faculties be granted by the ordinary himself “for the sake of strengthening the bond of ecclesial communion between those priests and faithful and their local pastors.”
- (5) The revised lectionary could be used to provide a “richer fare for the faithful at the table of God’s word,” although this should not be compulsory since it may discourage the return of those who have lapsed into “schismatic worship.”
- (6) Older and retired priests who have an attachment to, or at least a familiarity with, the 1962 Missal could be approached to provide pastoral care for those faithful requesting its use.¹²³

¹²³ PONTIFICAL COMMISSION ECCLESIA DEI, Guidelines for implementing the Apostolic Letter *Ecclesia Dei*, 19 April 1991, in *Origins*, 21 (1991-1992), pp 144-145

These guidelines derogated from a number of the restrictions of *Quattuor abhinc annos*, as will be discussed below

3.3.4.3 – Juridic Nature of the Provisions

Despite its legislative import, the *motu proprio Ecclesia Dei*, promulgated by Pope John Paul II, provides no new provisions for the use of the 1962 *Missale Romanum*. Instead, it urges “a wide and generous application” of the provisions in *Quattuor abhinc annos* (n. 6, c). To assist in this process, the Pontifical Commission *Ecclesia Dei* subsequently issued a set of guidelines. The precise juridic nature of these guidelines is unclear. The guidelines are addressed to unspecified bishops, and not all bishops and episcopal conferences received a copy. Furthermore, the guidelines were issued without an official date and were not published in any formal capacity.¹²⁴ The signature of the then-president of the Pontifical Commission *Ecclesia Dei*, Cardinal Paul Augustin Mayer, is affixed to the document, yet the nature of the guidelines, and the circumstances surrounding their publication, suggest that the document is a private response, albeit distributed to a number of bishops and episcopal conferences. The document’s opening paragraph supports this conclusion.

I write to you as a brother in the episcopal college charged by the Holy Father to carry out the provisions of his apostolic letter *Ecclesia Dei* of July 2, 1988. My objective in addressing myself to you now is precisely to encourage you in the exercise of your pastoral mission to those who legitimately request the celebration of Holy Mass according to the [1962] typical edition of the Roman Missal.

Despite its non-binding nature, these guidelines derogate from two norms of *Quattuor abhinc annos*, that is, by (1) permitting Masses according to the 1962 *Missale Romanum* in parish churches in less than exceptional circumstances, and (2) authorizing the use of the revised lectionary, despite the prohibition on intermingling the rites or texts of 1962 Missal and the Missal of Paul VI. Surely if general executory decrees (c. 33, §1) and instructions (c. 34 §2) of

¹²⁴ See W. H. WOESTMAN, “*Ecclesia Dei* and Ecclesial Communion,” in *The Jurist*, 53 (1993), p. 206, footnote 22.

congregations of the Roman Curia cannot derogate from the universal law, neither can a private response from a Cardinal prefect. Nevertheless, the guidelines provide the *praxis curiae* to those charged with executing the law. Perhaps the Pontifical Commission did not consider anything in these guidelines to be derogations of papal law but only examples of the “wide and generous” application of the 1984 norms as requested by the pope.¹²⁵

3.3.5 – Summary

The use of the 1962 *Missale Romanum* was initially permitted, with the consent of the Ordinary, provided that the amendments lawfully introduced in 1965 and 1967 were observed. This was the case for the exceptions for elderly and infirm priests as well as for the special indult for England and Wales. The exceptions for elderly and infirm priests only permitted Masses without a congregation, while the English indult also allowed for Masses with a congregation. With the additional faculty by law, communicated by means of *Quattuor abhinc annos* in 1984, diocesan bishops were given the faculty to permit the use of the 1962 *Missale Romanum*, without observing the amendments that had been introduced in the intervening years between the publication of *Sacrosanctum concilium* and the promulgation of the revised *Missale Romanum* of Paul VI. Following the excommunication of Mgr Lefebvre, John Paul II called for a “wide and generous” application of *Quattuor abhinc annos* in his *motu proprio Ecclesia Dei*, although no new provisions for the use of the 1962 *Missale Romanum* were introduced.

Summorum Pontificum is but the latest provision along a trajectory that has increasingly permitted the use of the 1962 *Missale Romanum* with fewer restrictions. Either by acts of

¹²⁵ The use of parish churches was encouraged by the *Ecclesia Dei* Commission, despite the restriction in *Quattuor abhinc annos*, on the basis that the provisions of *Quattuor abhinc annos* have been superseded, “in a certain sense,” by the *motu proprio Ecclesia Dei*, specifically its call for a “wide and generous” application of its provisions (See W.A. SCHUMACHER, and L. JARRELL [eds.], *Roman Replies and Advisory Opinions 1989*, Washington, DC, Canon Law Society of America, 1989, pp. 5-7).

legislative or executive power of governance, the Church has responded to the perceived need of those attached to an earlier liturgical tradition. Over time, the restrictions placed upon the use of the 1962 *Missale Romanum* have been mitigated. When Paul VI approved the revised Roman Missal, he expressed the hope that the faithful would receive the new Missal “as a help toward witnessing and strengthening their unity with one another.”¹²⁶ Although not all the faithful have been as enthusiastic as Paul VI may have hoped, the Church has nevertheless responded to their needs through generous and creative juridic measures.

Conclusion

This chapter began by investigating the roots of the opposition to the liturgical reforms and the multiple factors that continue to generate opposition nearly forty years after Pope Paul VI required that Roman Catholics around the world adopt the revised rites. Opposition to the post-conciliar liturgical reform was categorized according to a three-fold typology, namely (1) advancing the official reform; (2) restoring the pre-conciliar; (3) reforming the reform. This was followed by an examination of the principal challenges to conciliar and papal authority. As stated above, the most compelling of these arguments, frequently espoused by proponents of reforming the reform, are those concerned with the intent of *Sacrosanctum concilium* and whether the consequent reform remained faithful to this intent or departed from the Council’s wishes. A resolution to this debate was not offered, indeed cannot be offered, as these concerns are but a microcosm of much larger tensions between conflicting keys of interpretation, or what Benedict XVI has termed the “hermeneutics of continuity” and the “hermeneutics of discontinuity” concerning the Second Vatican Council and the reforms it initiated.

¹²⁶ PAUL VI, Apostolic Constitution on the Roman Missal *Missale Romanum*, 3 April 1969, in *AAS*, 61 (1969), pp 217-222, English translation in *DOL*, n 202, pp 458-461

The second part of this chapter explored the provisions for the continued use of the earlier liturgical rites. By use of various juridic means, the Holy See responded generously, yet cautiously, to requests for use of the 1962 *Missale Romanum*. As opposition to the liturgical reform remains intense in certain quarters, explicit mention was made of Mgr Marcel Lefebvre and the Society of St. Pius X which served, by and large, as a catalyst for further concessions from the Holy See and a motivating cause for *Summorum Pontificum* itself. Pope Benedict XVI acknowledged his obligation “to make every effort to make it possible for all those who truly desire unity to remain in that unity or to attain it anew,” and expressed his hope that *Summorum Pontificum* would achieve “an interior reconciliation in the heart of the Church.” Although reconciliation has not yet been achieved, identification of the principal difficulties and past concessions will assist in the remaining task of assessing the various pastoral, juridical, and liturgical challenges posed by *Summorum Pontificum*, which is the present legislation governing the celebration of what Benedict XVI has newly called “the extraordinary form of the Roman Rite.”

CHAPTER IV

THE PROVISIONS OF *SUMMORUM PONTIFICUM*

Introduction

On 7 July 2007, Pope Benedict XVI promulgated new ecclesiastical legislation – the Apostolic Letter *motu proprio Summorum Pontificum* – which allows broader use of the 1962 *Missale Romanum* (*SP*, art. 1) in addition to the pre-conciliar liturgical rites for the administration of the sacraments of baptism, marriage, penance, the anointing of the sick (*SP*, art. 9 §1), and confirmation (*SP*, art. 9, §2).¹ Use of pre-conciliar liturgical rites, other than that of the *Missale Romanum* of 1962, is a provision unique to *Summorum Pontificum* which had previously been granted only in extraordinary circumstances.² Like its immediate predecessor, the *motu proprio Ecclesia Dei, Summorum Pontificum* is a legislative document and was promulgated by Pope Benedict XVI who, by virtue of his office, possesses supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely (*CIC/83*, c. 331). *Summorum Pontificum* explicitly abrogates the earlier provisions of *Quattuor abhinc annos* and *Ecclesia Dei* (*SP*, art. 1), in accordance with c. 20. Like true ecclesiastical laws, *Summorum Pontificum* required promulgation (*CIC/83*, c. 7) and a suspensive period (*vacatio*) before which the new law became effective (*CIC/83*, c. 8). The Code prescribes that universal ecclesiastical laws become effective after a *vacatio* of three months, unless the law itself has specifically and expressly established a shorter or longer

¹ BENEDICT XVI, Apostolic Letter *motu proprio* on the use of pre-conciliar liturgical forms *Summorum Pontificum*, 7 July 2007 in *AAS*, 99 (2007), pp. 777-781, English translation in *Origins*, 37 (2007-2008), pp. 129-132

² See PONTIFICAL COMMISSION ECCLESIA DEI, Decree erecting the Priestly Fraternity of St. Peter as a clerical society of apostolic life of pontifical right, 18 October 1988, English translation in *CLSGBI Newsletter*, 77 (1989), pp. 27-28. The decree specifically notes. “The use of the liturgical books in force in 1962 is granted to members of the Priestly Fraternity of S. Peter, and also other priests who may be guests in houses of the Fraternity, or exercising the sacred ministry in its churches.”

suspensive period (*CIC/83*, c. 8, §1) In this case, the *motu proprio* prescribed the effective date of 14 September 2007 (*SP*, art. 12) Since *Summorum Pontificum* is an ecclesiastical law of a universal scope, it was published in the *Acta Apostolicae Sedis*, the Holy See's official commentary and ordinary means of promulgating laws (*CIC/83*, c. 8).

Despite the predictable responses to these provisions, ranging from “joyful acceptance to harsh criticism,”³ a recent study conducted in February 2008 by the Center for Applied Research in the Apostolate at Georgetown University has shown that the majority of adult Catholics in the United States express no opinion on the celebration of Mass according to the 1962 *Missale Romanum*.⁴ This is a notable change. When a similar survey was conducted in 1985, that is, after the provision *Quattuor abhinc annos*, only twenty-five percent of the respondents said they had “no opinion.” Rather, those opposed numbered thirty-five percent, compared to forty percent who favoured an increased availability of Mass celebrated according to the 1962 *Missale Romanum*.

In his accompanying letter to bishops, Benedict XVI attempted to address the two fears most commonly raised by those opposed to the new provisions. Firstly, the fear that *Summorum Pontificum* detracts from the authority of the Second Vatican Council and calls into question one of its essential decisions – the liturgical reform – is unwarranted, according to Benedict XVI, since the missal published by Paul VI, and revised on two subsequent occasions, will remain the ordinary form of the Eucharistic liturgy. Secondly, those who fear that the provisions of *Summorum Pontificum* will lead to “disarray or even divisions in parishes” must acknowledge that use of the older missal presupposes a certain degree of

³ BENEDICT XVI, Letter to bishops, p. 132

⁴ “In the CARA poll, 63 percent of respondents said they had “no opinion” about bringing back the Latin Mass, and those who “favor” bringing back the Latin Mass outnumbered those who “oppose” this by more than two to one (25 percent compared to 12 percent)” The entire report is available at <http://cara.georgetown.edu/pr082409.pdf> (18 November 2009)

liturgical formation and some knowledge of the Latin language. Since neither of these qualities is found very often, the revised missal will remain the ordinary form of the Roman Rite, “not only on account of the juridical norms but also because of the actual situation of the communities of the faithful.”⁵ Benedict XVI reveals that he is keenly aware of the difficulties *Summorum Pontificum* poses but, nonetheless, encourages bishops to receive the provisions in light of their overarching purpose: to achieve an interior reconciliation in the heart of the Church.

After a preamble in which Benedict XVI provides a brief historical sketch and identification of the various provisions for use of the earlier *Missale Romanum*, he proceeds to substitute the existing conditions for use of the 1962 *Missale Romanum* with those contained in the twelve articles of *Summorum Pontificum*. It should be noted that the issuance of additional norms to accompany and clarify the provisions of *Summorum Pontificum*, presumably in the form of an instruction, have been rumoured for some time. The remarks which follow in the form of a commentary on each of the provisions of *motu proprio* are made with the full awareness that an authoritative response or clarification may be offered at any time by the Holy See.

4.1 – Article 1: Extraordinary Form of the Roman Rite

Art. 1. Missale Romanum a Paulo VI promulgatum ordinaria expressio «Legis orandi» Ecclesiae catholicae ritus latini est. Missale autem Romanum a S. Pio V promulgatum et a B. Ioanne XXIII denuo editum habeatur uti extraordinaria expressio eiusdem «Legis orandi» Ecclesiae et ob venerabilem et antiquum eius usum debito gaudeat honore. Hae duae expressiones «legis orandi» Ecclesiae, minime vero inducent in divisionem «legis credendi» Ecclesiae; sunt enim duo usus unici ritus romani.

Art. 1. The Roman Missal promulgated by Paul VI is the ordinary expression of the *lex orandi* of the Catholic Church of the Latin rite. Nonetheless, the Roman Missal promulgated by St. Pius V and reissued by Blessed John XXIII is to be considered as an extraordinary expression of that same *lex orandi* and must be given due honour for its venerable and ancient usage. These two expressions of the church’s *lex orandi* will in no way lead to a division in the church’s *lex credendi*. They are in fact two usages of the one Roman rite.

Proinde Missae Sacrificium, iuxta editionem typicam

It is therefore permissible to celebrate the sacrifice of

⁵ BENEDICT XVI, Letter to bishops, pp. 132-133.

Missalis Romani a B. Ioanne XXIII anno 1962 promulgatum et numquam abrogatum, uti formam extraordinariam Liturgiae Ecclesiae, celebrare licet. Conditiones vero a documentis antecedentibus «Quattuor abhinc annos» et «Ecclesia Dei» pro usu huius Missalis statutae, substituuntur ut sequitur:

the Mass following the typical edition of the Roman Missal promulgated by Blessed John XXIII in 1962 and never abrogated as an extraordinary form of the liturgy of the church. The conditions for the use of this missal as laid down by earlier documents *Quattuor abhinc annos* and *Ecclesia Dei* are substituted as follows:⁶

Two of the most problematic issues of *Summorum Pontificum* are addressed in the first article: (1) the distinction introduced into the Roman rite, known henceforth as the *forma ordinaria* and the *forma extraordinaria*; and (2) the claim of Benedict XVI that the 1962 *Missale Romanum* was never abrogated. Each will be addressed in turn.

4.1.1 – Ordinary and Extraordinary Form of the Roman Rite

Summorum Pontificum's distinction between the *forma ordinaria* and *forma extraordinaria* of the Roman rite is innovative: it has no historical, theological, or canonical precedent. That liturgical rites once considered “ordinary” should later become “extraordinary” by an act of the supreme legislator was, until recently, inconceivable.⁷ *Summorum Pontificum* consistently applies the distinction between the *forma ordinaria* and *forma extraordinaria* to the *Missale Romanum* alone, despite the fact that it also permits use of the earlier versions of the *Rituale* and the *Pontificale*. It would have been desirable if the distinction had been applied to the

⁶ The English translation utilized throughout this study is the unofficial Vatican translation taken from *Origins*, 37 (2007-2008), pp. 129-132. When necessary, slight corrections have been made by the author in light of the promulgated text; these are indicated in square brackets. For an alternate English translation, see W.H. WOESTMAN, *Canon Law of the Sacraments for Parish Ministry*, Ottawa, Faculty of Canon Law, Saint Paul University, 2007, pp. 381-384.

⁷ See A. CAMERON-MOWAT, “*Summorum Pontificum*: A Response,” in *The Pastoral Review*, 3, n. 6 (2007), p. 6 (=CAMERON-MOWAT, “*Summorum Pontificum*: A Response”). There are examples in ecclesiastical law, however, where the “extraordinary” has become “ordinary.” The preface to the 1983 Code states this clearly: “In order that the Supreme Legislator and the bishops may collaborate in the care of souls and may exercise the pastoral office in a more positive fashion, those faculties to dispense from general laws which until now have been extraordinary are to become ordinary with reservations to the supreme power of the universal Church or other higher authorities only in those areas which require exception on account of the common good” (*Code of Canon Law: Latin-English Edition, New English translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 1999, pp. xxxvi-xxxvii). This finds legislative expression, for instance, in cc. 87, 1354, and 1355.

liturgy, rather than to a single liturgical book of the Roman rite.⁸ In practice, then, the “ordinary form” consists of the liturgical rites revised after the Second Vatican Council in light of *Sacrosanctum concilium*. The “extraordinary form” consists of the liturgical books utilized prior to this liturgical form. *Summorum Pontificum* and the accompanying letter to bishops employ a mixture of terminology to refer to the pre-conciliar *Missale Romanum*, including the *extraordinaria expressio* (art. 1), the *forma extraordinaria* (arts. 1, 5, §3), the *duo usus* (art. 1) and the *forma antiquior* (art. 10). In his accompanying letter to bishops, Benedict XVI also refers to these liturgical rites as the *usus antiquior*, a term preferred by many traditionalists, but generally distinguishes between the ordinary and extraordinary forms (*formae*), rather than the ordinary and extraordinary uses (*usus*) or expressions (*expressiones*).

In his accompanying letter to bishops, Benedict XVI provides further justification for the distinction that he introduces into the Roman rite by means of *Summorum Pontificum*:

There is no contradiction between the two editions of the Roman Missal. In the history of the liturgy there is growth and progress but no rupture. What earlier generations held as sacred, remains sacred for us too, and it cannot be all of a sudden entirely forbidden or even considered harmful. It behooves all of us to preserve the riches that have developed in the church's faith and prayer, and to give them their proper place.⁹

Benedict XVI's preference for adopting a hermeneutics of continuity rather than a hermeneutics of discontinuity or rupture in the interpretation of the Second Vatican Council

⁸ W.F. ROTHE, *Liturgische Versöhnung: Ein kirchenrechtlicher Kommentar zum Motu Proprio "Summorum Pontificum" für Studium und Praxis*, Augsburg, Dominus Verlag, 2009, p. 54 (=ROTHE, *Liturgische Versöhnung*).

⁹ BENEDICT XVI, Letter to bishops, p. 134. This same theme had been identified much earlier by Card. Ratzinger: “There is no doubt that this new missal in many respects brought with it a real improvement and enrichment; but setting it as a new construction over against what had grown historically, forbidding the results of this historical growth, thereby makes the liturgy appear to be no longer a living development but the product of erudite work and juridical authority; this has caused us enormous harm [. . .] A renewal of liturgical awareness, a liturgical reconciliation that again recognizes the unity of the history of the liturgy and that understands Vatican II, not as a breach, but as a stage of the Church: these things are urgently needed for the life of the Church [. . .] This is why we need a new Liturgical Movement, which will call to life the real heritage of the Second Vatican Council” (J. RATZINGER, *Milestones: Memoirs 1927-1977*, trans. E. LEIVA-MERIKAKIS, San Francisco, Ignatius Press, 1998, pp. 148-149).

and, by logical extension, the liturgical reform which followed was made explicitly in an address to the Roman Curia in 2005.¹⁰

Nathan Mitchell observes, without taking exception to this hermeneutical approach, that “a glance at history will reveal that the Roman Church typically preserves the ‘riches of the past’ by creating a new synthesis, rather than by resurrecting old forms.”¹¹ Continuity with the past does not necessarily exclude the introduction of notable liturgical reforms.¹² His most compelling example is that of Pius V’s apostolic constitution *Quo primum* by which he promulgated the *Missale Romanum* in 1570. *Quo primum* states:

Moreover we specifically order in virtue of holy obedience, each and every patriarch, administrator, and all other persons, of whatever ecclesiastical dignity they may be – even if they are cardinals of the Holy Roman Church, or possess some other rank or preeminence – to sing or read Mass according to the rite, manner, and norm (*iuxta ritum, modum, ac normam*) established by us in this Missal, and to discontinue and discard all other rubrics and rites of other missals, however ancient, which they may have followed until now. In celebrating Mass, they may not presume to introduce any ceremonies or recite any prayers other than those contained in this Missal.¹³

¹⁰ BENEDICT XVI, Address to the Roman Curia, 22 December 2005, in *Origins*, 35 (2005-2006), p. 536.

¹¹ N. MITCHELL, “The Amen Corner: ‘Summorum Pontificum,’” in *Worship*, 81 (2007), p. 552 (=MITCHELL, “Summorum Pontificum”)

¹² P.-M. Gy, for example, identifies the following as major reforms in the history of the Western liturgy: (1) the adoption of Latin in the fourth century; (2) the adaptation of Roman chant in Gaul in the Carolingian period, (3) the elevation of the host during the consecration and the introduction of the feast of Corpus Christi in the thirteenth century; (4) the development of ceremonials and modified rubrics for the papal chapel in the thirteenth century (P.-M. GY, “Les réformes liturgiques et la sociologie historique de la liturgie,” in M. KLOCKENER, B. KRANEMANN [eds.], *Liturgiereformen: Historische Studien zu einem bleibenden Grundzug des christlichen Gottesdienstes*, vol. 1: *Biblische Modelle und Liturgiereformen von der Frühzeit bis zur Aufklärung*, Munster, Aschendorff Verlag, 2002, p. 262).

¹³ “Mandantes ac districte omnibus et singulis Ecclesiarum praedictarum Patriarchis, Administratoribus, alisque personis quacumque Ecclesiastica dignitate fulgentibus, etiam si Sanctae Romanae Ecclesiae Cardinales, aut cuiusvis alterius gradus et praeeminentiae fuerint, illis in virtute sanctae obedientiae praecipientes, ut ceteris omnibus rationibus, et ritibus ex aliis Missalibus quantumvis vetustus hactenus observari consuets, in posterum penitus omissis, ac plane reiectis, Missam iuxta ritum, modum, ac normam, quae per Missale hoc a Nobis nunc traditur, decantent ac legant, neque in Missae celebratione alias caeremonias, vel preces, quam quae hoc Missali continentur, addere vel recitare praesumant” (PIUS V, Apostolic constitution promulgating the *Missale Romanum* of 1570 *Quo primum*, 14 July 1570, in P. GASPARRI [ed.], *Codex iuris canonici fontes*, Rome, Typis Polyglottis Vaticanis, 1939, vol. 1, p. 242). English translation from MITCHELL, “Summorum Pontificum,” p. 554.

The continued use of alternative missals was also permitted by *Quo primum* if these missals had been previously approved by the Holy See at least two hundred years previously, or if a custom, prevailing for no less than 200 years, could be verified. Nevertheless, Pius V's intention to impose a uniform *Missale Romanum* upon the entire Latin Church – admitting of only a few exceptions – was possible because of the influences of the printing press, missionary expansion, and the formation of new religious communities, such as the Jesuits, which assisted with the propagation of uniform liturgical discipline. Mitchell argues that “[t]o forbid the use of earlier missals, as *Quo primum* decrees, does not destroy or erase ‘what earlier generations held as sacred,’ but incorporates it into new ritual forms and texts that preserve, enhance, strengthen and improve ‘past riches’.”¹⁴

This same historical pattern was adopted by Paul VI in the promulgation of the *Missale Romanum* of 1970. The revised *Missale Romanum* was not presented as an alternative – to be used alongside the *Missale Romanum* of 1962 – but as an improved and enriched missal due, in large part, to the discovery of ancient liturgical manuscripts, rigorous historical research, and renewed theological reflection. The preamble to the 2002 *General Instruction of the Roman Missal*, n. 6, makes this abundantly clear:

In setting forth its instructions for the revision of the Order of Mass, the Second Vatican Council, using the same words as did St Pius V in the Apostolic Constitution *Quo primum*, by which the Missal of Trent was promulgated in 1570, also ordered, among other things, that some rites be restored “to the original norm of the holy Fathers” (*sanctorum Patrum norma*). From the fact that the same words are used it can be seen how both *Roman Missals*, although separated by four centuries, embrace one and the same tradition. Furthermore, if the inner elements of this tradition are reflected upon, it also becomes clear how outstandingly and felicitously the older *Roman Missal* is brought to fulfillment in the new

The two missals are not presented as diametrically opposed to one another, whereby the latter marks a ‘rupture’ within the historic or organic development of the liturgy. Instead, the pre-conciliar and reformed missals are presented as harmoniously interconnected, by which

¹⁴ MITCHELL, “*Summorum Pontificum*,” pp 554-555

the latter receives and improves upon the former, in much the same way as Pius V presented the *Missale Romanum* of 1570. Mitchell concludes: “Thus, the Roman method of liturgical restoration – reflected in history from Pope Damasus I to Pope Paul VI – achieves historical continuity by embracing a new synthesis rather than by retreating to a past form. Why? Because the past form is already renewed and refreshed in the *novus ordo*.” Benedict XVI’s division of the Roman Rite into two distinct expressions, then, follows no historical precedent.

The distinction introduced by *Summorum Pontificum* cannot be compared to either the various liturgical rites which exist in the Latin Church *sui iuris* or to the distinct liturgical rites of the various Eastern Churches *sui iuris*.¹⁵ A Church *sui iuris* belongs to one of six traditions – Alexandrian, Antiochene, Armenian, Chaldean, Constantinopolitan, and Latin – and, in turn, possesses its own liturgical, theological, spiritual and disciplinary patrimony (*CCEO*, c. 28). In the Latin Church *sui iuris*, a number of liturgical rites, all stemming from the same Latin tradition, have coexisted with the full approbation and encouragement of the Holy See. Many religious institutes that observed their own particular rites or liturgical calendars prior to the Second Vatican Council, such as the Dominicans, the Carmelites, and the Cistercians, eventually adopted the revised liturgical books of the Roman Rite.¹⁶ The Ambrosian Rite,

¹⁵ See CAMERON-MOWAT, “*Summorum Pontificum*: A Response,” p. 6. Rehak is critical of the inexactitude of the *motu proprio*’s dual usage of Roman rite and Latin rite (for the Latin church *sui iuris*) in art. 1, as this overlooks the Ambrosian and Mozarabic rites which are also observed in the Latin church *sui iuris*. See M. REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus: Kirchenrechtliche Skizzen zum Motu Proprio Summorum Pontificum vom 07.07.2007*, Münchener Theologische Studien, Kanonistische Abteilung, 64, Erzabtei St. Ottilien, EOS Verlag, 2009, p. 23 (=REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*).

¹⁶ For decrees of the Sacred Congregation for Divine Worship concerning the Cistercians, see *Notitiae*, 5 (1969), p. 360, and the Carmelites, see *Notitiae*, 8 (1972), p. 362. Although the Order of Preachers adopted the revised *Missale Romanum*, provisions remain for the Master General to permit priests *subject to him* to celebrate the Sacrifice of the Mass according to the Dominican Rite. The decree states: “Magister autem Generalis Ordinis, post adoptionem Missalis Romani pro universo Ordine Fratrum Prædicatorum, ipse pro sacerdotibus totius Ordinis vel Prior Provincialis pro suis subditis concedere valet licentiam celebrandi Missæ Sacrificum iuxta ritum dominicanum hucusque vigentem” (*Notitiae*, 5 [1969], p. 359).

observed in most of the Archdiocese of Milan, Italy, and the Mozarabic Rite, used principally in the cathedral of Toledo, Spain, remain two prominent exceptions to the near-ubiquitous observance of the Roman Rite in the Latin Church *sui iuris*.¹⁷ The distinction introduced by *Summorum Pontificum* – between the *forma ordinaria* and the *forma extraordinaria* – does not pertain to a Church *sui iuris* but to the liturgical books of a singular liturgical rite. Benedict XVI emphasizes this in his accompanying letter to bishops: “It is not appropriate to speak of these two versions of the Roman Missal as if they were ‘two rites’; it is a matter of a twofold use of one and the same rite.” (p. 133). Consequently, the distinction introduced by *Summorum Pontificum* remains without precedent and no comparisons can be drawn from distinctions which necessarily exist within and between Churches *sui iuris*.

The distinction between the *forma ordinaria* and the *forma extraordinaria* of the Roman rite also presents difficulties in light of canonical interpretation. Ecclesiastical laws “must be understood in accord with the proper meaning of the words considered in their text and context.” If the meaning remains doubtful and obscure, recourse must be made (1) to parallel places, if there are such, (2) to the purposes and circumstances of the law, and (3) to the mind of the legislator (*CIC/83*, c. 17). The adjective “extraordinary” (*extraordinarius*) is used in a variety of ways in ecclesiastical law. Huels provides three examples of its use in parallel places by the supreme legislator, namely, to distinguish extraordinary ministers of holy communion (c. 910), the extraordinary means of obtaining absolution from sin, and the extraordinary general assembly of the synod of bishops. To this, one final example

¹⁷ The revised *Missale Ambrosianum* was approved on 30 November 1974 (*Notitiae*, 11 [1975], p. 45) and the revised *Liturgia Horarum iuxta ritum Ambrosianum* on 11 June 1981 (*Notitiae*, 17 [1981], p. 539). The revised *Missale Hispano-Mozarabicum* was approved on 17 July 1988 (*Notitiae*, 24 [1988], pp. 671-672). For more information, see V. LENTI, “Liturgical Reform and the Ambrosian and Mozarabic Rites,” in *Worship*, 68 (1994), pp. 417-426, *idem*, “The Revised Ambrosian Divine Office,” in *Studia liturgica*, 29 (1999), pp. 116-126, J. PINELL, “La estructura de la Misa en Rito hispanico,” in *Notitiae*, 24 (1988), pp. 670-671.

concerning acts of extraordinary administration of temporal goods (cc. 1277, 638, §1) is added and considered below.

The law distinguishes between ordinary and extraordinary ministers of holy communion. Ordinary ministers of holy communion consist of bishops, presbyters, or deacons (c. 910, §1). An extraordinary minister of holy communion, conversely, is an acolyte or another member of the Christian faithful designated for this purpose (cc. 910, §2; 230, §3).¹⁸ In this case, the ministry performed by an extraordinary minister is, by its very nature, “supplementary and provisional.”¹⁹ The instruction *Redemptionis Sacramentum* states this clearly:

Indeed, the extraordinary minister of holy communion may administer communion only when the priest and deacon are lacking, when the priest is prevented by weakness or advanced age or some other genuine reason, or when the number of faithful coming to communion is so great that the very celebration of Mass would be unduly prolonged. This, however, is to be understood in such a way that a brief prolongation, considering the circumstances and culture of the place, is not at all a sufficient reason.²⁰

In short, “an extraordinary minister serves only in a case of necessity when there is no ordinary minister or when the pastoral needs of the community cannot be met exclusively by the available ordinary ministers.”²¹ This is not the way the phrase is used in *Summorum*

¹⁸ In special circumstances, extraordinary ministers of holy communion may be the minister of exposition and reposition of the Most Blessed Sacrament. In such cases, they cannot administer benediction and must observe the prescripts of the diocesan bishop (*CIC/83*, c. 943).

¹⁹ CONGREGATION FOR THE CLERGY et al, Instruction on certain questions concerning the cooperation of the lay faithful in the ministry of priests *Ecclesiae de mysterio*, 15 August 1997, art. 8, §2, in *AAS*, 89 (1997), pp. 852-877, English translation in *Origins*, 27 (1997-1998), p. 406. This instruction is noteworthy for two reasons: (1) it was jointly issued by eight different dicasteries; and (2) it was approved *in forma specifica* by the supreme pontiff thereby receiving legislative force.

²⁰ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be avoided regarding the Eucharist *Redemptionis Sacramentum*, 25 March 2004, n. 158, in *AAS*, 96 (2004), p. 593, English translation in *Origins*, 33 (2003-2004), p. 817.

²¹ HUELS, “Reconciling the Old with the New,” p. 93.

Pontificum since the *forma extraordinaria* may be celebrated regularly by the same priest or community – even when the *forma ordinaria* is readily available.²²

A similar example is found in the celebration of the sacrament of penance involving general confession and absolution. Although the term “extraordinary” is not used, it is implied in c. 960 which states that “individual and integral confession and absolution constitute the only ordinary means (*modum ordinarium*) by which a member of the faithful conscious of grave sin is reconciled with God and the Church.” The so-called third form of the sacrament of penance – reconciliation of a number of penitents with general confession and absolution – is “exceptional in character” and is regulated by its own special discipline.²³ If the ordinary means of celebrating the sacrament of penance includes individual confession and absolution, it follows that anything other than this remains, by definition, “extraordinary.”²⁴ Again, this is not the sense in which the term is used in *Summorum Pontificum*. The *forma extraordinaria* is not used in exceptional circumstances or under severely restricted conditions. In fact, it is to be considered an “extraordinary expression of that same *lex orandi* and must be given due honour for its venerable and ancient usage” (*SP*, art. 1).

The third example provided by Huels concerns the synod of bishops and the distinction between the ordinary general assembly, the extraordinary general assembly, and

²² Suerte Filipe uses this same example and concludes: “Being the *ordinary form* for the celebration of Mass of the Roman Rite, the 2002 Roman Missal of Pope John Paul II takes precedence over that of the 1962 Missal of Pope Blessed John XXIII.” See V.T.J. SUERTE FELIPE, “The 2002 GIRM and the 2007 *Summorum Pontificum*,” in *Boletín Eclesiástico de Filipinas*, 85 (2009), p. 281.

²³ See JOHN PAUL II, Post-Synodal apostolic exhortation on reconciliation and penance in the mission of the Church *Reconciliatio et poenitentia*, 2 December 1984, n. 32, in *AAS*, 77 (1985), p. 267, English translation in *Origins*, 14 (1984-1985), p. 453. In addition to cc. 961-963, the celebration of general confession and absolution is regulated by the norms in the *motu proprio Misericordia Dei* (see below).

²⁴ General confession and absolution are explicitly referred to as an “extraordinary means” (*extraordinarium instrumentum*) of the sacrament of penance in the *motu proprio Misericordia Dei*. See JOHN PAUL II, Apostolic letter *motu proprio* on certain aspects of the celebration of the sacrament of penance *Misericordia Dei*, 7 April 2002, in *AAS*, 94 (2002), p. 454, English translation in *Origins*, 32 (2002-2003), p. 14.

the special synod.²⁵ The two general assemblies deal with matters pertaining to the entire Church; the special synod considers affairs that directly pertain to a determinate region or regions (c. 345). What differentiates the ordinary and extraordinary general assemblies is the immediacy of the subject matter and the level of representation of the episcopate. Extraordinary general assemblies are convened to deal with topics demanding immediate attention and a speedy resolution (c. 346, §2). All members of an extraordinary synod are either appointed or included *ex officio* according to the provisions of the *ius peculiare*. Ordinary synods include broad representation of the episcopate and provide for the election of members. Huels argues that “[a]n extraordinary synod, convoked outside the cycle of ordinary synods, is an additional form of synod subordinate to the ordinary form.” As such, just as extraordinary synods are subordinate to ordinary synods, so is the *forma extraordinaria* subordinate to the *forma ordinaria*. It is subordinate because it cannot be as freely used as the *forma ordinaria*, in much the same way as extraordinary synods are convoked less frequently than ordinary synods.²⁶

One final example is drawn from Book V of the 1983 Code of Canon Law, that is, the distinction between acts of ordinary and extraordinary administration within dioceses (cf.

²⁵ A very similar example is that of the extraordinary consistory of cardinals. The gatherings at which cardinals are convened to offer assistance to the Roman Pontiff are called consistories; they are either ordinary or extraordinary (c. 353, §1). An ordinary consistory includes all the cardinals, at least those present in Rome, and deals with certain grave matters which occur frequently or to carry out certain very solemn acts, such as the conferral of the pallium on archbishops, canonizations, and the creation of new cardinals (c. 353, §2). An extraordinary consistory, on the other hand, is celebrated when particular needs of the Church or the treatment of more grave affairs requires it (c. 353, §2).

²⁶ Ordinary synods of bishops are certainly held more frequently than extraordinary synods; there have only been two extraordinary general assemblies of the synod of bishops (1969 and 1985). This same criterion, however, cannot be equally applied to extraordinary consistories of cardinals, which have been held on a far more frequent basis during the pontificate of John Paul II. Extraordinary consistories were convoked to deal with Vatican finances (1979 and 1982); the reform of the Roman Curia (1979, 1982, 1985); the revision of the Code of Canon Law (1982); threat to human life, especially abortion, and the danger of sects (1991); preparing for the jubilee year 2000, ecumenical relations, the International Year of the Family, and the better use of retired bishops (1994).

CIC/83, c. 1281, §2).²⁷ Extraordinary administration involves acts which do not routinely occur. The 1983 Code does not identify specific acts of extraordinary administration but entrusts that function to the conferences of bishops (*CIC/83*, c. 1277).²⁸ Before placing acts of extraordinary administration the diocesan bishop must receive the consent of the diocesan finance council and the college of consultors (*CIC/83*, c. 1277). The consent of these bodies is for the validity of the act (cf. *CIC/83*, c. 127, §2, 1^o). The use of the adjective “extraordinary” in this case is not entirely helpful in understanding the distinction introduced into the Roman rite. Whereas acts of extraordinary administration do not routinely occur and are defined by conferences of bishops, Mass celebrated according to the *forma extraordinaria* may occur daily and the norms to be observed are those of the supreme legislator, not the conferences of bishops. Similarly, unlike acts of extraordinary administration which require the consent of various bodies before they can occur, all priests may licitly use the 1962 *Missale Romanum* without the additional consent of the apostolic see or their ordinary (*SP*, art. 2).

What conclusions can be drawn from these alternate examples, or parallel passages, in the *ius vigens*? *Summorum Pontificum*'s distinction between the *forma ordinaria* and the *forma extraordinaria* finds no equivalent juridic expression in the law. The term “extraordinary” is used in a variety of ways and with varying consequences throughout the 1983 Code of Canon Law. What each example shares, of course, is revealed by the very meaning of

²⁷ Similarly, in religious institutes, “it belongs to proper law to determine acts which exceed the limit and manner of ordinary administration and to establish what is necessary to place an act of extraordinary administration validly” (*CIC/83*, c. 638, §1).

²⁸ Acts of extraordinary administration “are those which because of the nature or importance of the action or its financial value require the permission of a higher authority. Examples would include [...] acceptance or refusal of major bequests or gifts, purchase of land, construction of new buildings or extensive repair of old buildings, initial investment of capital, other expenditures of an amount over a certain limit. Establishing a hospital or school is usually considered an act of extraordinary administration because of its nature or importance (J. HITE, “Church Law on Property and Contracts,” in *The Jurist*, 44 [1984], p. 121).

“extraordinary” itself, that is, something which goes beyond what is usual, regular, or customary Benedict XVI provides two reasons why the *forma extraordinaria* will remain “extraordinary”:

The use of the old missal presupposes a certain degree of liturgical formation and some knowledge of the Latin language, neither of these is found very often. Already from these concrete presuppositions, it is clearly seen that the new missal will certainly remain the ordinary form of the Roman rite not only on account of the juridical norms but also because of the actual situation of the communities of the faithful.²⁹

It seems, then, that what distinguishes the two forms of the Roman rite – without considering the content of the liturgical books – is the following: (1) the *forma extraordinaria* will not be celebrated as frequently, at the very least because of the practical reasons outlined by the legislator, (2) there are further conditions, above and beyond those for the *forma ordinaria*, for the licit use of the *forma extraordinaria*, especially in parishes, such as the permission needed for use of the earlier *Rituale Romanum* (*SP*, art. 9, §1); and (3) the *forma extraordinaria* is not meant to supplant or replace the *forma ordinaria*. The latter will remain the Church’s normative expression of liturgical worship.³⁰

These distinguishing characteristics, however, should not be overstated. Although *Summorum Pontificum*’s use of the adjective “extraordinary” is peculiar and finds no equivalent expression in the law, the “purpose and circumstances” (c. 17) of the law are clear. The purpose of the *motu proprio* is to favourably provide for those wishing to make use of the earlier liturgical books, such as the *Missale Romanum* of 1962, without the need for any further juridic provisions. *Summorum Pontificum* must always be interpreted broadly in light of its purpose and the positive reason – the *mens legislatoris* – which motivated Benedict XVI to issue the *motu proprio* in the first place: his desire to achieve “an interior reconciliation in the

²⁹ BENEDICT XVI, Letter to bishops, p. 133

³⁰ See REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 30-31

heart of the Church.”³¹ The existence of these two expressions of the Roman rite, then, is neither an occasion for nor an expression of division but of legitimate liturgical diversity.³²

4.1.2 – Abrogation of the *Missale Romanum*

Summorum Pontificum, in extending permission to celebrate Mass according to *forma extraordinaria*, indicates that the typical edition of the Roman Missal promulgated by John XXIII was “never abrogated” (*SP*, art. 1).³³ This assertion was repeated again in Benedict XVI’s accompanying letter to bishops. He states the following:

As for use of the 1962 missal as a *forma extraordinaria* of the liturgy of the Mass, I would like to draw attention to the fact that this missal was never juridically abrogated and consequently in principle was always permitted. At the time of the introduction of the new missal, it did not seem necessary to issue specific norms for the possible use of the earlier missal. Probably it was thought that it would be a matter of a few individual cases which would be resolved, case by case, on the local level.

This statement has caused a significant degree of difficulty in its interpretation precisely because the contrary was held to be certain – even by the Holy See itself. Although this claim is made twice by the supreme legislator, no justification or evidence is offered in support.³⁴ If the earlier *Missale Romanum* was “never juridically abrogated,” as Benedict XVI asserts, why was it necessary to obtain permission for its continued licit use, according to explicit directives of the Holy See, for nearly forty years? It should be recalled that, after the promulgation of the revised *Missale Romanum*, continued use of the 1962 *Missale Romanum*

³¹ BENEDICT XVI, Letter to bishops, p. 134.

³² See ROTHE, *Liturgische Versöhnung*, p. 55.

³³ *Summorum Pontificum* reserves its “non-abrogated” claim to the 1962 *Missale Romanum* alone. A number of liturgical rites were explicitly abrogated with the promulgation of revised rites following the Second Vatican Council. In most cases, the decree of promulgation explicitly states that the revised rite is to replace the corresponding rite found in the earlier *Rituale Romanum* or *Pontificale Romanum*. Specific examples and references are found in footnote 118.

³⁴ G. May argues that both the letter and spirit of Paul VI’s apostolic constitution *Missale Romanum* conveyed his intention to abrogate the so-called Tridentine Mass or Mass of Pius V. See G. MAY, *Die alte und die neue Messe. Die Rechtslage hinsichtlich des Ordo Missae*, Sankt Augustin, H. Richarz Publikations-Service, 1984, p. 49. Ludecke finds *Summorum Pontificum*’s claim that the 1962 *Missale Romanum* was never abrogated a “canonical surprise” (*kanonistisch Überraschen*). See N. LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” in *Liturgisches Jahrbuch*, 58 (2008), p. 10 (=LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*”).

was permitted only in exceptional circumstances, provided for either in the law itself or by means of individual privileges. The explicit abrogation of all earlier pertinent legislation occurred by means of Paul VI's apostolic constitution *Missale Romanum* and was confirmed by the Sacred Congregation for Divine Worship which stated that, once a conference of bishops has decreed that a translation of the Roman Missal, or any part of it, was obligatory in a region, "Mass, whether in Latin or in the vernacular, may be celebrated lawfully only according to the rite of the Roman Missal promulgated 3 April 1969 by authority of Pope Paul VI."³⁵ The law itself contained an exception for elderly and infirm priests who, with the consent of their ordinary, were permitted to make use of the earlier liturgical texts in celebrations without a congregation. All other priests, however, were required to obtain a juridic provision, commonly referred to as an indult, enabling them to licitly celebrate Mass according to the 1962 *Missale Romanum*. This remained the *praxis curiae* until the promulgation of *Summorum Pontificum*, in 2007.

Before proceeding to discuss the possible meaning of *Summorum Pontificum*'s assertion that the 1962 *Missale Romanum* was never abrogated, a preliminary issue ought to be raised: the juridical status of liturgical books once they have been replaced with a new *editio typica*. Not only do liturgical books provide the texts and rituals required for the proper celebration of a particular liturgical rite, but they are also an indispensable source of liturgical law.³⁶ Liturgical books are formally promulgated, currently by the Congregation for Divine

³⁵ SACRED CONGREGATION FOR DIVINE WORSHIP, Notification on the obligatory nature of the Roman Missal of Paul VI *Conferentiarum Episcopatum*, 28 October 1974, in *Notitiae*, 10 (1974), p. 353, English translation in *DOL*, n. 219, p. 549. Continued use of the 1962 *Missale Romanum* in the case of elderly and infirm priests also required the observance of the emendations introduced in 1965 and 1967. See *idem*, Notification on the Roman Missal, the book of the Liturgy of the Hours, and the Calendar *Instrukione de Constitutione*, 14 June 1971, in *AAS*, 63 (1971), pp. 712-715, English translation in *DOL*, n. 216, p. 545. This is treated extensively in 3.3.1.1 above.

³⁶ See J. B. O'CONNELL, *The Celebration of Mass: A Study of the Rubrics of the Roman Missal*, 3 vols., London, Burns, Oates & Washbourne, 1941-1942, vol. 1, p. 3; HUELS, *Liturgy and Law*, pp. 84-88.

Worship and the Discipline of the Sacraments (cf. *CIC/83*, c. 7; *PB*, art. 64, §2). The act of promulgation is, of course, a legislative act and only occurs after the liturgical rite has been formally approved by the Roman Pontiff and with the express mandate of the same (cf. *CIC/83*, cc. 29-30). Through promulgation, the liturgical rite is established as normative for the Roman rite to the exclusion of all others. When a new *editio typica* is promulgated, the previous edition can no longer be licitly used, unless the decree of promulgation contains some form of exception.³⁷ For example, the Rite of Baptism for Children was first promulgated on 15 May 1969. Due to a need to emend and expand this rite, a second edition was promulgated on 29 August 1973; this rite, in either Latin or in an approved translation, remains the normative rite of baptism for children in the Roman rite. The earlier edition can no longer be lawfully used and the liturgical laws contained in it lack the force of law. Although the decree promulgating the new *editio typica altera* says nothing of abrogating the earlier rite and its accompanying liturgical laws, this has tacitly occurred in virtue of the promulgation of the new liturgical rite.³⁸ As Huels notes, “when a revised liturgical rite is published, there is no need for an express revocation of the former edition of the rite. The

³⁷ A frequent exception, beyond the typical *vacatio legis* (cf. *CIC/83*, c. 8, §1), is often provided to permit the conferences of bishops an opportunity to prepare a vernacular translation. For example, the *editio typica altera* of the *Ordo celebrandi Matrimonium*, promulgated on 19 March 1990, states: “By special mandate of the Supreme Pontiff John Paul II, the Congregation for Divine Worship and the Discipline of the Sacraments now publishes this new edition of the Order. The Latin edition becomes effective as soon as it is published. A vernacular translation, once it has been confirmed by the Apostolic See, shall become effective on the date to be determined by the conference of bishops” (CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Decree promulgating the *editio typica altera* of the *Ordo celebrandi Matrimonium*, 19 March 1990, in *Notitiae*, 26 [1990], p. 300, English translation in BISHOPS’ COMMITTEE ON THE LITURGY, *Thirty-Five Years of the BCL Newsletter: 1965-2000*, Washington, DC, United States Conference of Catholic Bishops, 2004, p. 1234). An English translation of the new rite has yet to be approved. Nevertheless, the *praenotanda* of the *editio typica altera* are to be observed in place of the *editio typica* of 1969.

³⁸ The decree of promulgation states: “Since there is need for a second printing of the *Ordo baptismi parvulorum*, published in 1969, it seemed opportune to prepare a second, emended and expanded edition of this rite [...] By his authority Pope Paul VI has approved this second edition of the rite of baptism for children. The Congregation for Divine Worship now issues it and declares it to be the *editio typica*” (SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica altera* of the rite of baptism for children *Cum necesse sit*, 29 August 1973, in *Notitiae*, 9 [1973], p. 268, English translation in *DOL*, n. 293, p. 719).

new text integrally reorders and thereby abrogates the former one.”³⁹ While a decree of promulgation may not expressly abrogate a liturgical book’s former edition, one can reasonably conclude that this has occurred in virtue an integral reordering of the entire subject matter (cf. *CIC/83*, c. 20).⁴⁰

The non-abrogation of the so-called Tridentine rite of Mass has been a contention of many traditionalists, such as Mgr Lefebvre, since the promulgation of the revised *Missale Romanum* by Paul VI.⁴¹ This argument is primarily based on the assertion that Pius V, by means of *Quo primum*, established a “perpetual indult” and “canonized” the Tridentine rite of Mass in perpetuity (see 3.1.2.2).⁴² Paul VI was clear in his response to such claims:

³⁹ HUELS, *Liturgy and Law*, p. 114. Sánchez-Gil argues that this interpretation is “legalistic” (*legalista*) and “positivistic” (*positivista*) and imposes upon liturgical books a “logic” (*logica*) which belongs properly to the juridical-canonical order. The Roman Missal, along with other liturgical books, cannot be reduced to a collection of liturgical laws. He suggests that the promulgation/abrogation of liturgical books follows its own “logic.” – analogous to the promulgation of the *Catechism of the Catholic Church* or the Latin Vulgate Bible – whereby the latter does not revoke or forbid the former. See A.S. SÁNCHEZ-GIL, “Gli innovativi profili canonici del Motu Proprio *Summorum Pontificum* sull’uso della liturgia Romana anteriore alla riforma del 1970,” in *Ius Ecclesiae*, 19 (2007), pp. 697-707. Surely, liturgical books cannot be reduced to a body of positive ecclesiastical law, yet, as a source of liturgical law, liturgical books are formally promulgated and abrogated (or derogated) by later legislation. If this were not the case, it would be impossible for the Holy See to impose any degree of liturgical uniformity throughout the Church.

⁴⁰ The abrogation of an earlier liturgical book may also be implicitly stated in the decree of promulgation. For example, decrees of promulgation frequently declare the new edition as the “editio typica,” implicitly removing such designation from the former. Implicit revocation is also indicated by the standard formula “anything to the contrary notwithstanding” (*contrarius quibuslibet non obstantibus*).

⁴¹ Mgr Lefebvre stated the following: “Supposing that the Pope could withdraw this perpetual indult, he would have to do it by an equally solemn act. The Apostolic Constitution *Missale Romanum* of the 3rd April 1969 authorizes the so-called Mass of Paul VI, but contains no expressly formulated prohibition of the Tridentine Mass [. . .] It follows from this that if a priest was censured or even excommunicated on this ground, the sentence would be absolutely invalid. St. Pius V has canonized this Holy Mass, and a Pope cannot remove such a canonization any more than he can revoke that of a saint. We can celebrate it and the faithful can attend it with complete peace of mind, knowing furthermore it is the best way of maintaining their faith” (M. LEFEBVRE, *An Open Letter to Confused Catholics*, trans. SSPX – GREAT BRITAIN, Dickinson, TX, Angelus Press, 1989, pp. 181-182).

⁴² This was directly contradicted in a brief essay published in *Notitiae*, the official journal of the Sacred Congregation for Divine Worship, which confirmed that all contrary dispositions were abrogated by Paul VI’s apostolic constitution *Missale Romanum*, most notably *Quo primum* (*Cette constitution apostolique annule de plein droit toutes dispositions contraires, notamment celles de la bulle Quo primum, du 13 juillet 1570 [..]*). See *Notitiae*, 8 (1972), pp. 337-342. More recently, the CDW confirmed that *Quo primum* was indeed abrogated implicitly by Paul VI. “Sebbene nella Costituzione Apostolica *Missale Romanum* del Papa Paolo VI, non si trovi una formula esplicita di abrogazione del *Missale Romanum* di S. Pio V, è tuttavia chiara la volontà del supremo Legislatore

For our part, in the name of tradition, we beseech all our children and all Catholic communities to celebrate the rites of the restored liturgy with dignity and fervent devotion. Use of the new *Ordo Missae* is in no way left up to the choice of priests or people. The instruction of 14 June 1971 provided that celebration of Mass according to the former rite would be permitted, by faculty from the Ordinary, only for aged or sick priests offering the sacrifice *without a congregation*. The new *Ordo Missae* was promulgated in place of the old after careful deliberation and to carry out the directives of Vatican Council II. For a like reason our predecessor St. Pius V, after the Council of Trent, commanded the use of the Roman Missal revised by his authority.⁴³

Not only do Benedict XVI's assertions in *Summorum Pontificum* and the accompanying letter to bishops appear to challenge those of Paul VI and the Roman Curia, they also appear to contradict Card. Ratzinger's own earlier reflections. Ratzinger recalls, in his memoirs, the difficulties which accompanied the publication of the revised *Missale Romanum* in 1970:

The second great event at the beginning of my years in Regensburg was the publication of the Missal of Paul VI, which was accompanied by the almost total prohibition, after a transitional phase of only half a year, of using the missal we had had until then. I welcomed the fact that now we had a binding liturgical text after a period of experimentation that had often deformed the liturgy. But I was dismayed by the prohibition of the old missal, since nothing of the sort had ever happened in the entire history of the liturgy.⁴⁴

In expressing his regret, Ratzinger has acknowledged that the earlier *Missale Romanum* was prohibited – in practice at least – in nearly all circumstances.

liturgico di promulgare un testo rinnovato del «Missale Romanum» che prendesse il posto di quello fino ad allora in uso. Se la volontà del Pontefice fosse stata quella di lasciare in vigore le precedenti forme liturgiche come una alternativa di libera scelta, avrebbe dovuto dirlo esplicitamente. Rebus sic stantibus e alla luce della documentazione posteriore, come della prassi, si deve asserire che il «Missale Romanum» anteriore al Concilio Vaticano II non è più in vigore come una alternativa di libera scelta per l'insieme delle Chiese che appartengono al Rito romano" (CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLE OF THE SACRAMENTS, Private reply to Archbishop G. Bonicelli of Siena, 11 June 1999, at www.unavox.it/doc11.htm [25 August 2009]). For an analysis of this letter, see A. FINOCCHIARO, "Problematiche aperte nel web sul Motu Proprio *Summorum Pontificum*: Posizioni e valutazioni," in *Rivista liturgica*, 94 (2007), pp. 959-960.

⁴³ At vero, nomine ipsius Traditionis Nos ab omnibus filiis Nostris atque ab omnibus catholicis communitatibus postulamus, ut cum dignitate pietatisque fervore renovatae Liturgiae ritus celebrentur. Usus novi *Ordinis Missae* minime quidem sacerdotum vel christifidelium arbitrio permittitur. Instructione autem edita die quarto decimo mensis Iunii anno millesimo nongentesimo septuagesimo primo provisum est, ut Missae celebratio antiquo ritu sineretur, facultate data ab Ordinario, tantummodo sacerdotibus aetate proventus vel infirmis, qui Divinum Sacrificium *sine populo* offerrent. Novus Ordo promulgatus est, ut in locum veteris substitueretur post maturam deliberationem, atque ad exsequendas normas quae a Concilio Vaticano II impertitae sunt. Haud dissimili ratione, Decessor Noster S. Pius V post Concilium Tridentinum Missale auctoritate sua recognitum adhiberi iusserat (PAUL VI, Address to a consistory of cardinals, 24 May 1976, in *AAS*, 68 [1977], pp. 368-378, English translation in *DOL*, n. 59, p. 178).

⁴⁴ J. RATZINGER, *Milestones: Memoirs 1927-1977*, trans. E. LEIVA-MERIKAKIS, San Francisco, Ignatius Press, 1998, p. 146

In light of Paul VI's express intention to replace the earlier *Missale Romanum* with the one revised by his authority, along with the prohibition of all earlier missals which accompanied its promulgation – a fact acknowledged even by Ratzinger – how is one to understand Benedict XVI's assertion that the 1962 *Missale Romanum* was “never juridically abrogated” and “in principle was always permitted”? This statement appears to be either: (1) a rather overt denunciation of his predecessors and the *praxis curiae*, all of which had explicitly required juridic provisions of various forms for the continued licit use of the 1962 *Missale Romanum*; or (2) an imprecise and creative use of canonical terminology.⁴⁵ Surely, the supreme legislator cannot be accused of the former. We must presume the latter, then, if we are to reconcile *Summorum Pontificum*'s curious assertion that the 1962 *Missale Romanum* was “never abrogated”.

The first way to interpret that claim is to distinguish between the abrogation of the law requiring use of a particular liturgical book and the abrogation of the liturgical book itself. In other words, the law requiring use of the 1962 *Missale Romanum* was abrogated with the promulgation of the revised *Missale Romanum*, but the 1962 *Missale Romanum* itself was “never abrogated.” This is certainly tenable, but the distinction is largely artificial. As noted above, when a new *editio typica* is promulgated, it is no longer permissible to use the former, unless the law contains an exception, or, by means of a singular administrative act, exceptions to the universal law are obtained. There appears to be no conceivable need to state expressly that a liturgical book is abrogated, above and beyond the abrogation of the law requiring its use. There is no value in having a “non-abrogated” liturgical book that

⁴⁵ This latter point is made by Huels: “Lorsque le pape Benoît dit que le Missel romain de 1962 n'a jamais été abrogé, il parle dans un sens non technique en voulant dire que ce Missel a continué à être utilisé, même après que le rite révisé de la messe soit devenu la norme en 1970, l'ancien Missel n'a donc jamais été totalement défunt” (J M HUELS, *Liturgie et droit. Le droit liturgique dans le système du droit canonique de l'Eglise catholique*, Montréal, Wilson & Lafleur, 2007, p. 269 (=HUELS, *Liturgie et droit*). See also, *idem*, “Reconciling the Old with the New,” p. 95).

cannot be licitly used or, conversely, of having an “abrogated” liturgical book that can be licitly used. The need to expressly abrogate a liturgical book appears redundant inasmuch as this is accomplished with the abrogation of the law requiring use of particular liturgical book. As Huels notes, “[w]hile the Missal itself was not explicitly abrogated, the freedom to *use* it was expressly abrogated.”⁴⁶ This occurred by means of Paul VI’s apostolic constitution *Missale Romanum* which required use of the revised Roman Missal and abrogated previous law that required the use of the 1962 *Missale Romanum*.

The second way in which to understand this claim is to note an important qualifier that Benedict XVI has added to his assertion that the 1962 *Missale Romanum* was “never abrogated.” *Summorum Pontificum* does not state that the 1962 *Missale Romanum* was “never abrogated,” but that it was “never abrogated as an extraordinary form of the liturgy of the Church” (*SP*, art. 1). Similarly, in his accompanying letter to bishops, Benedict XVI does not state that use of the 1962 *Missale Romanum* was “never juridically abrogated,” but that “as a *forma extraordinaria* of the liturgy of the Mass” the 1962 *Missale Romanum* “was never juridically abrogated.” In both instances, Benedict XVI has qualified his statement by insisting that it is only *as an extraordinary form of the liturgy* that the 1962 *Missale Romanum* was “never juridically abrogated.” The assertion that the 1962 *Missale Romanum* was “never abrogated” and “in principle was always permitted,” then, appears to be no more than an observation that, as an exception to universal law, the 1962 *Missale Romanum* was continually used – even after the promulgation of the revised Missal of Paul VI. It is true that the 1962 *Missale Romanum* was never explicitly abrogated by name and, even after the promulgation of the revised *Missale Romanum* in 1969, the earlier *Missale Romanum* has been continuously used, in one form or another, either by means of an exception contained within law or in virtue of

⁴⁶ HUELS, “Reconciling the Old with the New,” p. 94

an individual privilege *contra legem*. The difficulty with the claim made by *Summorum Pontificum* and the accompanying letter to bishops, however, is that it relies upon a rather imprecise and regrettable use of terminology and is meaningful only in light of the creative and anachronistic use of distinctions – the *forma ordinaria* and the *forma extraordinaria* – introduced with the promulgation of *Summorum Pontificum*.

One further difficulty with this observation can be identified. While it is true that even after the promulgation of the revised *Missale Romanum* in 1969 the earlier *Missale Romanum* was used in extraordinary circumstances, it was not until 1984 that the 1962 *Missale Romanum* could be used without also observing the emendations introduced in 1965 and 1967 respectively. In other words, between 1969 and 1984, the only lawful exception to the revised *Missale Romanum* was the 1962 *Missale Romanum*, along with the emendations introduced in response to *Sacrosanctum concilium*, *Inter oecumenica*, and *Tres abhinc annos* (see 2.5). *Quattuor abhinc annos* permitted, for the first time since the promulgation of revised *Missale Romanum* in 1969, use of the 1962 *Missale Romanum* without also observing the notable changes introduced in 1965 and 1967. Consequently, to state that the 1962 *Missale Romanum* was “never abrogated” and “in principle was always permitted” – even as a *forma extraordinaria* – requires significant qualification in light of the restrictions placed upon its use before the 1984 provisions of *Quattuor abhinc annos*.

In the end, it remains unclear what *Summorum Pontificum* intends to convey by stating that the 1962 *Missale Romanum* was “never abrogated” and “in principle was always permitted.”⁴⁷ To avoid calling into disrepute the praxis of the Holy See for the last forty

⁴⁷ Read considers another motive for this statement “I suspect that the point of including this phrase is to calm the fears of supporters of the Society of St Pius X that legislation enacted by one Pope could easily be revoked by another. It will also enable them to claim that, at least on this point, they were right all along, and have been unjustly treated. Perhaps such a step is necessary to allow healing and reconciliation to take place, even if [it] does not guarantee that it will happen” See G READ, “The Motu Proprio *Summorum Pontificum*,” in *CLSGBI Newsletter*, 151 (2007), p. 14 (=READ, “The Motu Proprio *Summorum Pontificum*”).

years, that is, the need to obtain a privilege *contra legem* to celebrate Mass according to the 1962 *Missale Romanum*, it seems sensible to conclude that Benedict XVI is employing canonical terminology in a unique and non-technical fashion.⁴⁸ Furthermore, it is unclear why this statement was even required. The lawfulness of using pre-conciliar liturgical books is not dependent on the “non-abrogation” of these books but on *Summorum Pontificum* itself.⁴⁹ By means of a legislative act, Benedict XVI has permitted use of the 1962 *Missale Romanum*, along with the earlier *Rituale Romanum*, *Pontificale Romanum* and the *Breviarium Romanum*, under the conditions specified in *Summorum Pontificum*. The Roman Pontiff is able to do so because he is the supreme legislator, not because the 1962 Missal was “never juridically abrogated.” Even if *Summorum Pontificum* stated explicitly that the 1962 Missal was abrogated, Benedict XVI could still permit its use in virtue of his supreme legislative authority (cf. *CIC/83*, c. 331).⁵⁰ After all, it is for the Apostolic See to order the sacred liturgy of the universal Church (*CIC/83*, c. 838, §2). This is precisely what *Summorum Pontificum* accomplishes, yet its claim that the 1962 *Missale Romanum* was “never abrogated” remains puzzling in light of proper canonical hermeneutics and earlier contrary indications from the Holy See itself.⁵¹

⁴⁸ Rehak wonders whether Benedict’s assertion that the 1962 *Missale Romanum* was “never abrogated” is a dictum of power rather than of truth (“Ist die Erklärung Benedickts XVI. also Machtspruch statt Wahrspruch?”). See REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p. 55.

⁴⁹ *Summorum Pontificum* does not restore the liturgical books of the *forma extraordinaria* to the juridical status they enjoyed before the Second Vatican Council. There are limitations on their use, especially in arts 2, 5, and 9. Consequently, there is little value in speaking of the non-abrogation of the 1962 *Missale Romanum*.

⁵⁰ Sánchez-Gil recalls that the Pope is “supreme” only in the sense of being above all other authorities in the Church, not in the sense of pursuing absolute power without restraint. Since the liturgy is “a constitutive element of the holy and living Tradition” (*CCC*, n. 1124), “no sacramental rite may be modified or manipulated at the will of the minister or the community. Even the supreme authority in the Church may not change the liturgy arbitrarily, but only in the obedience of faith and with religious respect for the mystery of the liturgy” (*CCC*, n. 1125). See A.S. SÁNCHEZ-GIL, “Gli innovativi profili canonici del Motu Proprio *Summorum Pontificum* sull’uso della liturgia Romana anteriore alla riforma del 1970,” in *Ius Ecclesiae*, 19 (2007), p. 704.

⁵¹ Haunerland, referring to standard principles of canon law and the clear statement of Paul VI’s apostolic constitution *Missale Romanum*, concludes: “It is not possible to see how this statement of the pope is grounded in the hermeneutics of canon law and liturgical history [...] The statement that the rite itself was never abrogated is irritating” (V. W. HAUNERLAND, “Ein ritus in zwei ausdrucksformen? Hintergründe und

It may have been preferable, then, for the legislator to state that the 1962 *Missale Romanum* was “never forbidden” rather than “never abrogated.” Why? Firstly, it is a statement of fact. The 1962 *Missale Romanum* was used, in one form or another, even after Paul VI promulgated a revised *Missale Romanum*. This is true even before 1984, although the 1962 *Missale Romanum* was permitted only in a modified form. Secondly, the statement achieves a similar effect. Benedict XVI, by stating that the 1962 *Missale Romanum* was never abrogated, acknowledges that “[w]hat earlier generations held as sacred, remains sacred for us too, and it cannot be all of a sudden entirely forbidden or even considered harmful.”⁵² This sentiment is true and would be more appropriately expressed if the *motu proprio* avoided using a juridical term to express a theological or pastoral conviction. Thirdly and perhaps most significantly of all, the statement would avoid indirectly undermining the authoritativeness of Paul VI and the *praxis curiae* for the last forty years. Although the 1962 *Missale Romanum* was never forbidden and “in principle was always permitted,” freedom to use it was indeed abrogated. These statements convey similar but distinct juridical concepts. Care should always be taken, then, particularly in legislative documents, to ensure that these concepts are properly distinguished.

Article one concludes by explicitly abrogating *Quattuor abhinc annos* and the *motu proprio Ecclesia Dei*. Henceforth, the conditions for use of the 1962 *Missale Romanum*, along with other liturgical books of the *forma extraordinaria*, are found in the following eleven articles of the present *motu proprio*.

Perspektiven zur Liturgiefeyer nach dem Motu Proprio «Summorum Pontificum»,” in *Liturgisches Jahrbuch*, 58 [2008], p 187 [=HAUNERLAND, “Ein ritus in zwei ausdrucksformen”])

⁵² BENEDICT XVI, Letter to bishops, p 134

4.2 – Article 2: Masses *sine populo*

Art. 2. In Missis sine populo celebratis, quilibet sacerdos catholicus ritus Latini, sive saecularis sive religiosus, uti potest aut Missali Romano a beato Papa Ioanne XXIII anno 1962 edito, aut Missali Romano a Summo Pontifice Paulo VI anno 1970 promulgato, et quidem qualibet die, excepto Triduo Sacro. Ad talem celebrationem secundum unum alterumve Missale, sacerdos nulla eget licentia, nec Sedis Apostolicae nec Ordinarii sui.

Art. 2 In Masses celebrated without the people, [any] Catholic priest of the Latin rite, whether secular or [religious], may use the Roman Missal published by Blessed Pope John XXIII in 1962 or the Roman Missal promulgated by Pope Paul VI in 1970, and may do so on any day with the exception of the Easter Triduum. For such celebrations, with either one Missal or the other, the priest has no need for permission from the Apostolic See or from his Ordinary.

Summorum Pontificum adopts a distinction, used frequently in earlier liturgical documents, between Masses celebrated *cum populo* and *sine populo*, with and without people respectively.⁵³ The second and fourth articles of *Summorum Pontificum* address the latter for Masses celebrated by both secular and religious priests. A Mass *sine populo* may, in fact, include the presence and participation of members of the faithful, although such Masses are distinct from Masses celebrated in parishes where there is a stable group of the faithful who adhere to the earlier liturgical tradition (*SP*, art. 5). The most innovative element of *Summorum Pontificum* is that it permits all priests of the Latin rite – for the first time since the promulgation of the revised *Missale Romanum* of Paul VI – use of the so-called Missal of Bl. John XXIII, promulgated in 1962, without the consent of the Apostolic See or their respective ordinary. This is a very generous concession since it allows priests of the Latin rite, both secular and religious alike, a great deal of discretion when celebrating a Mass *sine*

⁵³ The 2002 *General Instruction of the Roman Missal* no longer distinguishes between Masses with or without a congregation but between a Mass with a congregation (*Missae cum populo*) and a Mass at which only one minister participates (*De Missa, cuius unus tantum Minister participat*). This distinction reflects more closely the provision of *CIC/83*, c. 906 which states that, “except for a just and reasonable cause, a priest is not to celebrate the Eucharistic sacrifice without the participation of at least some member of the faithful.” For a more complete background to and meaning of *Missae sine populo*, see REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 55-65.

populo.⁵⁴ They may now choose between “the Roman Missal published by John XXIII in 1962 or the Roman Missal promulgated by Paul VI in 1970” (*SP*, art. 2).⁵⁵

Priests may make use of the *Missale Romanum* of either the ordinary or extraordinary form for Masses celebrated *sine populo* on any day, with the exception of the Easter Triduum. Although the Easter Triduum is generally understood as the three complete days from the Mass of the Lord’s Supper on Holy Thursday through to Vespers of Easter Sunday, the context of the present law suggests a narrower computation. The restriction contained in art. 2 must be interpreted in light of a similar restriction contained in 2002 *General Instruction of the Roman Missal*. A priest is free to celebrate a Mass in the *forma ordinaria* individually, that is, without the people, with the exception of Holy Thursday and the Mass of the Easter Vigil.⁵⁶ Therefore, Masses celebrated *sine populo* in the *forma extraordinaria* are similarly not permitted on either Holy Thursday or the Easter Vigil. It would be unreasonable to restrict celebrations of Mass *sine populo* according to the extraordinary form on Easter Sunday in light

⁵⁴ Although not explicit, reference to “religious” priests in article 2 must be interpreted broadly to include priests belonging to societies of apostolic life and secular institutes. See ROTHE, *Liturgische Versöhnung*, p. 67.

⁵⁵ The *motu proprio* is misleading and requires refinement. Priests may not make use of the “Roman Missal promulgated by Pope Paul VI in 1970” because two subsequent editions of the *Missale Romanum* have been promulgated since 1970. The *editio typica altera* was promulgated on 27 March 1975, necessarily replacing use of the earlier edition (SACRED CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *editio typica altera*, 27 March 1975, in *Notitiae*, 11 [1975], p. 297, English translation in *DOL*, n. 207, p. 464) The *editio typica tertia* was promulgated on 20 April 2000 but not published until 2002 (CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Decree promulgating the *editio typica tertia* of the *Missale Romanum*, 20 April 2000, in *Notitiae*, 38 [2002], pp. 452-453) Until a vernacular translation of the latest edition has received the required *recognitio* of the Holy See and promulgation from the conference of bishops (cf. *CIC/83*, c. 838, §3), it remains lawful to make use of a duly approved vernacular translation of the earlier edition.

⁵⁶ *GIRM*, n. 199. The restriction on celebrating Mass individually on Holy Thursday and for the Mass of the Easter Vigil is new to the 2002 edition of the *General Instruction of the Roman Missal*. *Sacrosanctum concilium*, however, also prohibited the celebration of Mass individually on Holy Thursday (*SC*, n. 57). See also CONGREGATION FOR DIVINE WORSHIP, Circular letter on the preparation and celebration of the paschal feasts *Paschalis sollemnitatis*, 16 January 1988, n. 93, in *Notitiae*, 24 (1988), p. 103, English translation in *Organs*, 17 (1988), p. 685.

of the absence of similar restrictions for Masses celebrated according to the ordinary form.⁵⁷ This restriction on the use of the extraordinary form, of course, does not apply to communal celebrations. Communities that regularly make use of the extraordinary form may continue to do so during the Easter Triduum.

Although the Chrism Mass is not part of the Easter Triduum, it raises an important issue in relation to the restriction included in this article. The Chrism Mass, “which the bishop concelebrates with his college of presbyters and at which he consecrates the holy chrism and blesses the other oils, manifests the communion of the presbyters with their bishop” (*CE*, n. 274). This Mass is to be ordinarily celebrated on Holy Thursday morning, although it is frequently celebrated on an earlier day for a variety of worthy reasons (*CE*, n. 275). The Chrism Mass is of great importance in the life of a local Church:

Presbyters are brought together and concelebrate this Mass as witnesses and cooperators with their bishop in the consecration of the chrism because they share in the sacred office of the bishop in building up, sanctifying, and ruling the people of God. This Mass is therefore a clear expression of the unity of the priesthood and sacrifice of Christ, which continue to be present in the Church (*CE*, n. 274)

It follows, then, that priests who frequently or exclusively celebrate Mass according to the *forma extraordinaria* should not be excused, in principle, from attending and concelebrating the Chrism Mass celebrated according to the *forma ordinaria*. Such a conclusion finds support in Benedict XVI’s accompanying letter to bishops:

Needless to say, in order to experience full communion, the priests of the communities adhering to the former usage cannot as a matter of principle exclude celebrating according to the new books. The total exclusion of the new rite would not in fact be consistent with the recognition of its value and holiness

⁵⁷ “However, in the context of this law, the triduum refers not to the Masses on Easter Sunday but to the liturgical celebrations of the Lord’s Supper on Holy Thursday, the Lord’s Passion on Good Friday, and the Easter Vigil. At these solemn liturgies, priests should participate in a communal celebration. Private celebration is excluded, whether using the 1962 Missal or that of 2002” (HUELS, “Reconciling the Old with the New,” p. 96). See also REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 65-68.

Other days in which concelebration with the diocesan bishop is to be held in high regard include the ordination Mass of a new bishop or his coadjutor or auxiliary, the evening mass of the Lord's Supper, at celebrations of the founder saint of a local Church or the patron of the diocese, and, lastly, on the occasion of a synod or pastoral visitation (*GIRM*, n. 203). As an expression of unity and as a recognition of the "value and holiness" of the revised liturgical books, priests adhering to the *forma extraordinaria* should not, as a matter of principle, exclude concelebration in the *forma ordinaria* on these noteworthy occasions.

The needless multiplication of Masses must also be avoided. Whether using the *forma ordinaria* or the *forma extraordinaria*, priests are forbidden from celebrating or concelebrating more than once each day, except when permitted by law (*CIC/83*, c. 905, §1). If there is a shortage of priests, the local ordinary may permit priests to celebrate twice a day for a just cause, or if pastoral necessity requires it, even three times on Sunday and holy days of obligation (*CIC/83*, c. 905, §2). As well, *Summorum Pontificum* permits priests to freely choose between the 1962 *Missale Romanum* and the revised *Missale Romanum* when celebrating a Mass *sine populo*. It does not, however, authorize the arbitrary imposition of the *forma extraordinaria* upon communities which are not attached to this particular usage. As Haunerland argues, Benedict XVI, by means of *Summorum Pontificum*, is responding to a need; he is not trying to create one.⁵⁸

4.3 – Article 3: Institutes of Consecrated Life

Art. 3. Si communitates Institutorum vitae consecratae atque Societatum vitae apostolicae iuris sive pontifici sive dioecesiani quae in celebratione conventuali seu "communitatis" in oratoris propriis celebrationem sanctae Missae iuxta editionem Missalis Romani anno 1962 promulgatam habere cupiunt, id eis licet. Si singula communitas aut totum Institutum vel Societas tales celebrationes saepe vel habitualiter

Art. 3. Communities of institutes of consecrated life and of societies of apostolic life, of either pontifical or diocesan right, wishing to celebrate Mass in accordance with the edition of the Roman Missal promulgated in 1962, for conventual or "community" celebrations in their oratories, may do so. If an individual community or an entire institute or society wishes to undertake such celebrations often,

⁵⁸ HAUNERLAND, "Ein ritus in zwei ausdrucksformen?," p. 196.

vel permanenter perficere vult, res a Superioribus maioribus ad normam iuris et secundum leges et statuta particularia decernatur.

habitually or permanently, the decision must be taken by the [major superiors] in accordance with the law and following their own [particular laws] and statutes.

Inserted between two articles dealing with the same subject matter is the present article concerning the celebration of Mass in the *forma extraordinaria* for communities of institutes of consecrated life and societies of apostolic life, of either pontifical or diocesan right.⁵⁹ A clerical religious institute or clerical society of apostolic life may be entrusted with the care of a parish by the local ordinary (*CIC/83*, cc. 520, 681, 738, §2). The present article does not pertain to the celebration of Mass in the *forma extraordinaria* in such a parish but only to the conventual or “community” celebrations in their oratories. An oratory is a place for divine worship established for the benefit of a community or group that gathers in it, and to which other members of the faithful can also come with the consent of the competent superior (*CIC/83*, c. 1223). A religious institute may invite members of the faithful to their community’s liturgical celebrations – including Masses celebrated according to the *forma extraordinaria* – without the permission of the diocesan bishop.

The present article distinguishes between occasional and frequent, habitual or permanent use of the 1962 *Missale Romanum* at community celebrations.⁶⁰ Occasional use of the 1962 *Missale Romanum* does not require the permission of the major superior; use of this same Missal often, habitually, or permanently (*saepe vel habitualiter vel permanenter*) requires a decision to be taken by the major superiors in accordance with the law and following their

⁵⁹ “An institute of consecrated life is said to be of pontifical right if the Apostolic See has erected it or approved it through a formal decree. It is said to be of diocesan right, however, if it has been erected by a diocesan bishop but has not obtained a decree of approval from the Apostolic See” (*CIC/83*, c. 589).

⁶⁰ The original Latin text, distributed before its official promulgation in the *AAS*, read: “saepe vel plerumque vel permanenter.” The promulgated text has replaced *plerumque* (for the most part) with *habitualiter* (habitually). Consequently, the clause now includes instances where the *forma extraordinaria* is celebrated habitually, but not necessarily most of the time, such as once a week or for special occasions. Such cases are not merely occasional and the provisions of art. 3 must be observed. For a copy of the earlier text, see *Epemerdes liturgicae*, 121 (2007), pp. 489-493. See also *Rivista Liturgica*, 95 (2008), p. 272.

own particular laws and statutes.⁶¹ *Summorum Pontificum* does not prescribe how a local community is to request permission for the frequent, habitual or permanent use of the *forma extraordinaria* or how the major superior is to reach such a decision. In any event, this decision must not be taken arbitrarily or according to the major superior's personal preference. Instead, the decision must be made in accordance with the proper law of the institute (*CIC/83*, c. 587) and after carefully considering the request in light of the "mind and designs of the founders regarding the nature, purpose, spirit, and character" of the particular institute or society (*CIC/83*, c. 578).⁶²

Shortly after its establishment, John Paul II granted special faculties to the Pontifical Commission *Ecclesia Dei* to accomplish the particular task entrusted to it which required acts that went beyond the customary order of law. Included was the faculty to erect an institute of consecrated life or a society of apostolic life of pontifical right for communities committed to the use of former liturgical and disciplinary forms.⁶³ By means of *Summorum Pontificum*, this is no longer strictly required since the decision to observe the *forma extraordinaria* on either a frequent, habitual or permanent basis may be made by the institute itself. Whether restricted to an individual community or encompassing the entire institute, if the use of the 1962 *Missale Romanum* occurs on a frequent, habitual or permanent basis, the decision must be made by the major superiors.⁶⁴ If an individual priest of an institute of

⁶¹ "Those who govern an entire institute, a province of an institute or part equivalent to a province, or an autonomous house, as well as their vicars, are major superiors" (*CIC/83*, c. 620) Superiors are to have their own councils to assist them in carrying out their function (*CIC/83*, c. 627, §1).

⁶² ROTHE, *Liturgische Versöhnung*, pp. 79-80.

⁶³ PONTIFICAL COMMISSION ECCLESIA DEI, *Rescriptum ex audientia Sanctissimi* concerning faculties entrusted to the Pontifical Commission, 18 October 1988, in *AAS*, 82 (1990), pp. 533-534, English translation in *CLSGBI Newsletter*, 77 (1989), pp. 19-20. For a list of communities with such a designation, see READ, "The Motu Proprio *Summorum Pontificum*," p. 10

⁶⁴ Read foresees difficulties with the provision of this article: "What if a significant minority within the community is opposed to the decision, especially as it concerns the community Mass? Will there be a separate

consecrated life or society of apostolic life elects to use the 1962 *Missale* at a Mass celebrated *sine populo*, however, permission of the major superior is not required – even if this occurs on a frequent, habitual or permanent basis (cf. *SP*, art. 2).

4.4 – Article 4: Masses Celebrated *sine populo* with People

Art. 4 Ad celebrationes sanctae Missae de quibus supra in art. 2 admitti possunt, servatis de iure servandis, etiam christifideles qui sua sponte id petunt.

Art. 4. Celebrations of Mass as mentioned above in art. 2 may – observing all the norms of law – also be attended by faithful who of their own free will ask to be admitted

The designation of a Mass as *sine populo* in article two is somewhat misleading in light of the provisions of the present article. It is a “private” celebration, not as a result of the absence of other members of the faithful, but on account of the fact that it may be unannounced and is generally not open to the public at large. A Mass *sine populo* may be defined, then, as a Mass which includes the presence of another individual, such as a server, or some members of the faithful; an individual priest may also celebrate Mass *sino populo* for a reasonable and just cause (cf. *CIC/83*, c. 906).⁶⁵ Members of the faithful may attend such a Mass *sua sponte*, that is, individually and of their own free will. That these Masses remain *sine populo* is rather curious from the point of view of juridical vocabulary. It seems that Benedict XVI, by introducing the faithful to a Mass *sine populo*, wishes to emphasize the character of the Eucharist as a public exercise of the *munus sanctificandi*.⁶⁶ Article four is an implicit

chaplain, in the case of non-ordained religious, and if so what will be the relationship with the usual chaplain? What will happen if one or more communities, or provinces, disagree with a decision taken by the institute as a whole, whether it is in favour or against taking such a step? Will a separate province or institute be formed? Presumably the matter will be referred to the Commission *Ecclesia Dei* under article 12 [of *Summorum Pontificum*]” (READ, “The Motu Proprio *Summorum Pontificum*,” p. 17).

⁶⁵ The Sacred Congregation for the Sacraments clarified that, according “authors learned in liturgy and moral theology,” there are only four occasions in which Mass may be celebrated without a server: (1) if Holy Viaticum is to be given to a sick person; (2) to enable the people to satisfy the precept of hearing Mass; (3) in time of pestilence; (4) if the server leaves the altar during the course of Mass. See SACRED CONGREGATION FOR THE SACRAMENTS, Instruction on private oratories, portable altars, Mass without servers and reserving the Blessed Sacrament in Private Chapels *Quam plurimum*, 1 October 1949, in *AAS*, 41 (1949), 493-511; English translation in *CLD*, 3, p. 335.

acknowledgement that it is better to have more than one member of the faithful present at Mass – even a Mass *sine populo* – due to the communal nature of all liturgical celebrations.⁶⁷

Article four leaves attendance at a Mass *sine populo*, celebrated according to the *forma extraordinaria*, to the initiative of the faithful. Can such Masses be publicized? Huels and Read maintain that public announcements should be avoided since this would compromise the private nature of such celebrations.⁶⁸ Lüdecke, on the other hand, argues that all publicity for the celebration need not be restricted. The faithful should be able to alert each other to the fact that such a priest celebrates a Mass according to the *forma extraordinaria* at a certain time.⁶⁹ If Masses *sine populo* are planned in advanced and widely publicized, such as in a parish bulletin, the distinction between a Mass *sine populo* (*SP*, art. 2) and a Mass celebrated *cum populo* in a parish where there is a stable group of faithful (*SP*, art. 5) is unsustainable and rather meaningless. There is a difference, after all, between celebrating a Mass *sine populo* with individuals who ask to be admitted and, conversely, celebrating a so-called Mass *sine populo* after extensive publicity and with the full intent of attracting a large gathering of the faithful. A Mass *sine populo*, according to its very definition, receives little publicity.⁷⁰ This does not mean, however, that these Masses must be secretive or clandestinely celebrated. All Masses,

⁶⁶ LÜDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 18

⁶⁷ The 1958 instruction *De musica sacra* recalls that “[t]he holy sacrifice of the Mass is an act of worship offered to God in the name of Christ and the Church; of its nature, it is public, regardless of the place or manner of its celebration. Thus, the term ‘private Mass’ should never be used” (Chapter 1, n. 2). Except for a just and reasonable cause, a priest is not to celebrate the Eucharistic sacrifice without the participation of at least some member of the faithful (*CIC/83*, c. 906; cf. *CIC/17*, c. 813, §1).

⁶⁸ HUELS, *Liturgie et droit*, p. 272; READ, “The Motu Proprio *Summorum Pontificum*,” p. 17.

⁶⁹ LÜDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 17.

⁷⁰ This point was made in an earlier private reply. *Ecclesia Dei* was asked: “Finally, can a Mass be considered a ‘private Mass’ when it is attended by a congregation over 100 in a public meeting room.” It responded: “A Mass which has been publicly advertised in advance as a part of a forum which anticipates over 100 participants can never be considered a ‘private Mass’” (PONTIFICAL COMMISSION ECCLESIA DEI, Private reply concerning use of the 1962 Roman Missal, in F. S. PEDONE and J. I. DONLON [eds], *Roman Replies and CLSA Advisory Opinions 1998*, Washington, DC, Canon Law Society of America, 1998, p. 11).

even those celebrated *sine populo*, retain a public character. Communal celebrations “involving the presence and active participation of the faithful” are to be preferred, as far as possible, to a celebration that is individual and, so to speak, private (*SC*, n. 27).

The faithful who ask to be admitted to the Mass *sine populo* of art. 2 do not have to make any kind of formal request, provided that the Mass is celebrated in an open Church.⁷¹ A Church is, after all, “a sacred building designated for divine worship to which the faithful have the right of entry for the exercise, especially the public exercise, of divine worship” (*CIC/83*, c. 1214). If the Mass is to be celebrated in an oratory or private chapel, however, admission cannot be presumed. This is not a restriction limited to the *forma extraordinaria* but on account of the nature and purpose of such a designation.⁷² Since celebration of Mass in either the *forma ordinaria* or the *forma extraordinaria* is to be carried out in a sacred place that has been appointed for divine worship (*CIC/83*, c. 932), a priest is to be permitted to celebrate Mass even if he is unknown to the rector of the Church, provided he is able to furnish a *celebret* or it can be judged prudently that he is not impeded from celebrating (*CIC/83*, c. 903).

4.5 – Article 5, § 1: Parishes with a Stable Group of the Faithful

Art. 5, §1. In paroecis, ubi coetus fidelium traditioni liturgicae antecedenti adhaerentium stabiliter existit, parochus eorum petitiones ad celebrandam sanctam Missam iuxta ritum Missalis Romani anno 1962 editi, libenter suscipiat. Ipse videat ut harmonice concordetur bonum horum fidelium cum ordinaria paroeciae pastoralis cura, sub Episcopi regimine ad normam canonis 392, discordiam vitando et totius Ecclesiae unitatem fovendo

Art. 5, §1. In parishes where there is a stable group of faithful who adhere to the earlier liturgical tradition, the pastor should willingly accept their requests to celebrate the Mass according to the rite of the Roman Missal published in 1962 and ensure that the welfare of these faithful harmonizes with the ordinary pastoral care of the parish, under the guidance of the bishop in accordance with canon 392, avoiding discord and favouring the unity of the whole Church

⁷¹ ROTHE, *Liturgische Versöhnung*, pp. 82-83.

⁷² An oratory is “a place for divine worship designated by permission of the ordinary for the benefit of some community or group of the faithful who gather in it and which other members of the faithful can also come with the consent of the competent superior” (*CIC/83*, c. 1223). A private chapel is “a place for divine worship designated by permission of the local ordinary for the benefit of one or more physical persons” (*CIC/83*, c. 1226).

The present article provides for the celebration of Mass in parishes where there is a stable group of the faithful who adhere to earlier liturgical traditions. Now that the 1962 *Missale Romanum* constitutes the *forma extraordinaria* of the one Roman rite, this article is largely an application of two fundamental rights assured to all the Christian faithful. Firstly, the Christian faithful have the right to receive assistance from the sacred pastors out of the “spiritual good of the Church, especially the word of God and the sacraments” (*CIC/83*, c. 213). Celebration of Mass according to the *forma extraordinaria* is no longer a privilege extended to the faithful by the competent authority on an individual basis but a right that is enshrined in law and one that can be properly vindicated if requests for such celebrations are not satisfied (cf. *SP*, art. 7). Secondly, the faithful have a right to worship God according to the precepts of their own rite approved by the legitimate pastors of the Church (*CIC/83*, c. 214). *Summorum Pontificum* considerably broadens the Roman rite to include liturgical books promulgated both before and after the Second Vatican Council. Consequently, where there is a stable group of faithful in parishes who adhere to the earlier liturgical tradition, the pastor should willingly accept their requests to celebrate the Mass according to the 1962 *Missale Romanum*.

The promulgated text has provided greater clarity concerning the nature of the group capable of making a request for Mass according to the *forma extraordinaria* by replacing *continenter* with *stabiliter*.⁷³ A stable group does not necessarily require uninterrupted existence since the promulgation of the revised liturgical books, as was implied by the use of *continenter*, but it must be an identifiable group which is “ongoing, committed to regular participation in

⁷³ For a copy of the earlier text, see *Ephemerides liturgicae*, 121 (2007), pp. 489-493. The difficulty with the use of the adverb *continenter* is that it has a rather obscure meaning in this case. It is used only once in the 1983 Code (c. 1682, §1). *Stabiliter*, on the other hand, is used frequently in the 1983 Code, denoting something which is fixed, determinate, enduring, or unvarying (cf. *CIC/83*, cc. 145, §1, 230, §1; 368; 515, §1; 813; 1438, 2°; 1700, §1; 1733, §2; 1742, §1).

the Mass, and genuinely attached to the former rites.”⁷⁴ Such a group is determined by its factual existence, that is, an objective and demonstrative desire, from a stable group within a parish, for Mass celebrated according to the 1962 *Missale Romanum*. It is not necessary, however, that this group is juridically established or defined.⁷⁵

A pastor should willingly accept (*libenter suscipiat*) the request for Mass celebrated according to the 1962 *Missale Romanum* from a stable group in his parish or quasi-parish.⁷⁶ Some argue that a stable group is comprised of at least three members, based upon the general principle *tres faciunt collegium*.⁷⁷ This, of course, does not mean that a request from three individuals *must* be met with a favourable response; it simply indicates that to deny a request based on some arbitrary number not being attained would be contrary to the norm of law (cf. *CIC/83*, c. 18). Additional factors, such as the suitability and the availability of priests, must also be considered before rendering a decision.⁷⁸ One should also remember that regular attendance at liturgical celebrations in the church of a territorial parish does not

⁷⁴ HUELS, “Reconciling the Old with the New,” p. 99. See also REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p. 105.

⁷⁵ ROTHE, *Liturgische Versöhnung*, pp. 87.

⁷⁶ Although not mentioned by *Summorum Pontificum*, a broad interpretation of law would include quasi-parishes among the provisions of §1: “Unless the law provides otherwise, a quasi-parish is equivalent to a parish; a quasi-parish is a definite community of the Christian faithful in a particular church, entrusted to a priest as its proper pastor but not yet erected as a parish because of particular circumstances” (*CIC/83*, c. 516, §1). Similarly, military chaplains, who enjoy the rights and are bound to the duties of parish priests, should accede to the requests for Mass according to the *forma extraordinaria* from a stable group of faithful entrusted to their care (See JOHN PAUL II, Apostolic constitution on the spiritual care of the military *Spiritualium militum curae*, 21 April 1986, n. VII, in *AAS*, 78 (1986), p. 484, English translation in *CLD*, 12, p. 315).

⁷⁷ ROTHE, *Liturgische Versöhnung*, pp. 88-89; LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 19. The argument also finds analogous support in *CIC/83*, c. 115: A juridical person, comprised of an aggregate of persons (*universitas personarum*), can only be constituted with at least three members. Huels argues that since *Summorum Pontificum* does not define the size of the group, this may be established in particular law. See HUELS, “Reconciling the Old with the New,” p. 99.

⁷⁸ Rehak argues that the pastor, as a rule, must freely accept (*libenter suscipiat*) the request of the faithful unless there are sufficient reasons to prevent him from doing so. The pastor has an obligation to consider the request, but there is no compulsory obligation to actually fulfill it: *Nemo potest ad impossibile obligari* (RJ in 6° 6). See REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p. 115.

necessarily make one a member of the parish; membership is acquired through domicile or quasi-domicile (*CIC/83*, c. 102). With modern means of transportation, especially in cities, individuals frequently attend liturgical celebrations in churches located outside the parish boundaries of their domicile or quasi-domicile. A broad interpretation of the law would suggest that the notion of a stable group does not necessarily require that all members of the group, or a certain percentage of them, must be domiciled or quasi-domiciled within the parish boundaries.⁷⁹ As with a parish, the actual composition of the group may change over time without necessarily jeopardizing its stability.⁸⁰ While only a stable group has a right to be heard according to §1 of the present article, this does not preclude the possibility of an *ad hoc* group, that is, one lacking stability, making a request for Mass celebrated according to the *forma extraordinaria*.⁸¹ A pastor may respond favourably to such a request, although he is under no obligation to do so.

Requests for Mass celebrated according to the 1962 *Missale Romanum* ought to be made in writing so as to provide documentary proof if the need should arise. The pastor's favourable response to such a request is an act of the power of governance⁸² that has the

⁷⁹ Read argues: "Equally, the *Motu Proprio* does not state, as some have argued, that the stable group must come from within the parish. This is to take §1 in isolation from §5. The phrase 'In parishes' is parallel to 'in churches that are not parish or conventual churches.' This point was clarified orally by Cardinal Castrillon Hoyos [formerly of the Pontifical Commission *Ecclesia Dei*] at the Latin Mass Society AGM in 2008." See G. READ, "Summorum Pontificum – Some Questions and Issues," in *CLSGBI Newsletter*, 156 (2008), p. 33 (=READ, "Some Questions and Issues").

⁸⁰ ROTHE, *Liturgische Versöhnung*, pp. 86-87.

⁸¹ See READ, "The *Motu Proprio Summorum Pontificum*," p. 18.

⁸² See HUELS, *Liturgie et droit*, p. 273. Whether pastors exercise the power of governance, as opposed to performing mere acts of administration, is a disputed point. Most commentators on the 1917 Code held that pastors did not exercise jurisdiction in the external forum (B.F. DEUTSCH, *Jurisdiction of Pastors in the External Forum: A Historical Synopsis and a Commentary*, Canon Law Studies, n. 378, Washington, DC, Catholic University of America, 1957, pp. 174-180). The 1983 Code states that a pastor "under the authority of the diocesan bishop [...] carries out the function of teaching, sanctifying, and governing" (*CIC/83*, c. 519). Beal argues, on the basis of this development, that "the office of pastor now clearly carries with it that share in the power of governance needed to direct and moderate the pastoral life of the parish" (J.P. BEAL, "Hierarchical Recourse: Procedures at the Local Level," in *CLSAAP*, 62 [2000], p. 95 [=BEAL, "Hierarchical Recourse"]).

juridic nature of a singular administrative act, an act issued by the competent executive authority in which a provision is made for a particular case (cf. *CIC/83*, c. 48). His refusal to permit such a Mass in the parish would have the juridic nature of a singular administrative decree that makes a decision (*CIC/83*, cc. 48-58).⁸³ Before issuing the decree or denying permission orally, the pastor should seek out the necessary information and proofs and, in so far as possible, hear those whose rights can be injured from the decree (*CIC/83*, c. 50). The pastor's decision cannot be an arbitrary one, based solely on his own preference, but must be made in light of the favourable provisions of *Summorum Pontificum*. A decree is to be issued in writing, with the reasons at least summarily expressed (*CIC/83*, c. 51). This is especially important in light of the possibility of hierarchical recourse against an unfavourable decision (*SP*, art. 7).⁸⁴ It is important to recall here that, although the pastor is to willingly accept requests to celebrate Mass according to the 1962 *Missale Romanum*, he is not juridically obliged to personally celebrate these Masses. No one can be forced to celebrate a Mass according to the *forma extraordinaria*, especially priests without the requisite formation and comprehension of the Latin language. The pastor is nevertheless required to find an alternative solution, such as arranging for a visiting priest to celebrate these Masses.⁸⁵

The article concludes by admonishing the pastor to ensure that the welfare of the faithful attached to earlier liturgical forms is harmonized with the ordinary pastoral care of

⁸³ The pastor's response has the juridic nature of a singular administrative act since (1) it is an intentional act of the will; (2) it makes a legally binding determination, whether favourable or unfavourable; and (3) it is performed by one who has special legal authority who acts on behalf of a public juridical person (J.M. HUELS, "The Power of Governance and its Exercise by Lay Persons: A Juridical Approach," in *Studia canonica*, 35 [2001], pp. 65-69). Beal identifies three similar characteristics of administrative acts: "(1) the administrative authority issuing these acts enjoys discretion, i.e., he or she has the authority to choose among two or more courses of action or inaction; (2) these acts themselves are directed toward achieving the public good within the limits of the law; and (3) these acts immediately alter the juridic status of affected persons" (BEAL, "Hierarchical Recourse," p. 96).

⁸⁴ Huels observes that the possibility for hierarchical recourse (cc. 1732-1739) is not excluded, provided the case is justified (HUELS, *Liturgie et droit*, p. 273).

⁸⁵ ROTHE, *Liturgische Versöhnung*, pp. 91-92.

the parish “under the guidance of the bishop in accordance with c. 392, avoiding discord and favouring the unity of the whole church” (*SP*, art 5, §1). Although the role of the bishop is treated more extensively in art. 7 of the *motu proprio*, the present article reminds us of a bishop’s twofold function: (1) to promote the common discipline of the whole Church and urge the observance of all ecclesiastical laws (*CIC/83*, c. 392, §1), and (2) to exercise vigilance to ensure that abuses do not creep into ecclesiastical discipline, especially regarding the ministry of the word, the celebration of the sacraments and sacramentals, the worship of God and the veneration of the saints, and the administration of goods (*CIC/83*, c. 392, §2). In short, art. 5, §1 invites bishops to ensure that the faithful attached to earlier liturgical forms receive proper pastoral assistance in light of the provisions of *Summorum Pontificum*.

4.6 – Article 5, §2: Frequency of Celebration

Art 5, §2 Celebratio secundum Missale beati Ioannis XXIII locum habere potest diebus ferialibus, dominicis autem et festis una etiam celebratio huiusmodi fieri potest

Art 5, §2 Celebration in accordance with the missal of Blessed John XXIII may take place on working days, while on Sundays and feast days one such celebration may also be held

Summorum Pontificum places no restrictions on the number of Masses that can be celebrated according to the 1962 *Missale Romanum* – the so-called Missal of Blessed John XXIII – in parishes on weekdays (*feriae*). The language employed in the article is fairly cautious (*locum habere potest*), requiring an exercise of discretionary judgement in such circumstances. One factor which must be considered is the number of Masses a priest is permitted to celebrate on any given day. Unless a faculty to binate has been received, a priest is not permitted to celebrate Mass more than once a day except when permitted by law (c. 905). Art. 5, §1 reminds us that the welfare of the faithful attached to earlier liturgical forms must be harmonized with the ordinary pastoral care of the parish. It may be necessary to compromise so as to avoid the needless multiplication of Masses celebrated daily by an

individual priest while still accommodating, as much as possible, the spiritual lives of those attached to both the *forma ordinaria* and the *forma extraordinaria*.⁸⁶

Although no numerical restriction has been placed on the celebration of Mass in *forma extraordinaria* on weekdays, only one such Mass may be celebrated on Sundays and holy days (*festas*).⁸⁷ It is interesting that a restriction is placed on days which are most likely to draw the largest number of faithful to Mass and, consequently, on days when priests may be tempted to hold more than one such celebration. This restriction, then, must be seen in light of the three distinguishing characteristics of the *forma extraordinaria* noted above: (1) the *forma extraordinaria* will not be celebrated as frequently as the *forma ordinaria*; (2) there are further conditions, above and beyond those for the *forma ordinaria*, for the licit use of the *forma extraordinaria*; and (3) the *forma extraordinaria* is not meant to supplant or replace the *forma ordinaria* of the Roman rite (see 4.1.1). The restriction placed on Masses celebrated on Sundays and holy days, however, is not retroactive. Parishes which already celebrate more than one such Mass on Sundays and holy days may continue to do so without violating the prescriptions of *Summorum Pontificum*.⁸⁸ In particular cases and for a just and reasonable cause, bishops may dispense from this restriction to permit the celebration of more than one Mass according to the 1962 *Missale Romanum* on Sundays and holy days.⁸⁹ Clearly, a just and

⁸⁶ See HUELS, *Liturgie et droit*, p. 274.

⁸⁷ Read argues that no such restriction exists: "Note that the document says *una etiam*, not *una tantum*. It envisages one Mass on Sundays and holy days, but does not strictly preclude more than one. The wording is concessory rather than limiting in tone" (READ, "The Motu Proprio *Summorum Pontificum*," p. 18). This is not the consensus of most commentators. See A. GERHARDS, "Die Sorge der Papiste 'Das motu Proprio Benedikts XVI zur Wiederzulassung der alten Liturgie,'" in *Herder-Korrespondenz*, 61 (2007), p. 399; HUELS, *Liturgie et droit*, p. 274; HUELS, "Reconciling the Old with the New," p. 98; LUDECKE, "Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*," p. 21; ROTHE, *Liturgische Versöhnung*, pp. 96-97.

⁸⁸ This conclusion is reached on the basis of the following: "Laws regard the future, not the past, unless they expressly provide for the past" (*CIC/83*, c. 9); "Rescripts are not revoked by a contrary law unless the law itself provides otherwise" (*CIC/83*, c. 73).

reasonable cause for a dispensation would exist in situations in which large numbers of the faithful attached to earlier liturgical forms could not be easily accommodated at one Mass on Sundays and holy days in a particular parish.

4.7 – Article 5, §3: Special Circumstances and Occasions

Art. 5, §3. Fidelibus seu sacerdotibus id petentibus, parochus celebrationes, hac in forma extraordinaria, permittat etiam in adiunctis peculiaribus, uti sunt matrimonia, exsequiae aut celebrationes occasionales, verbi gratia peregrinationes.

Art. 5, §3. For the faithful and priests who request it, the pastor should also allow celebrations in this extraordinary form for special circumstances such as marriage, funerals or occasional celebrations, e.g. pilgrimages.

The present article refers generally to celebrations (*celebrationes*) in the extraordinary form. The context of §3, however, suggests that *celebrationes* refers exclusively to Masses celebrated according to the *forma extraordinaria* on special occasions such as marriages and funerals and not to the actual celebration of marriages and funerals according to their earlier liturgical forms. *Summorum Pontificum* provides for use of the earlier rituals and the *Pontificale Romanum* (SP, art. 9), but this is not the subject matter of §3. The wording of the paragraph also reveals that the examples provided do not comprise an exhaustive listing.⁹⁰ The pastor may permit the celebration of Mass according to the *forma extraordinaria* in a variety of circumstances upon request of the faithful. Unlike §1, these requests do not depend upon the existence of a stable group of the faithful in the parish who adhere to the earlier liturgical tradition. Where a stable group does not exist and the circumstances do not warrant a regular or frequent celebration of Mass in the *forma extraordinaria* in the parish, the pastor

⁸⁹ See HUELS, *Liturgie et droit*, p. 274. *Summorum Pontificum*, art. 5, §2 is a universal disciplinary law not specially reserved to the Apostolic See and is subject, therefore, to dispensation by the diocesan bishop (CIC/83, c. 87). See J.M. HUELS, “Categories of Indispensable and Dispensable Laws,” in *Studia canonica*, 39 (2005), pp. 66-73.

⁹⁰ LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 21; ROTHE, *Liturgische Versöhnung*, p. 99.

should allow (*permittat*) the celebration of Mass according to the extraordinary form for special circumstances or occasional celebrations.⁹¹

The paragraph refers to the faithful and priests (*fideles seu sacerdotes*) who request celebrations in the *forma extraordinaria*. This is a curious distinction since it presupposes that priests are not numbered among the faithful (cf. *CIC/83*, c. 207, §1). Among the Christian faithful there are sacred ministers who in law are also called clerics (*clerici*); all other members of the Christian faithful are called lay persons (*laici*). Between these two groups, a true equality regarding dignity and action exists in virtue of baptism (*CIC/83*, c. 208). The paragraph, then, should more accurately distinguish between clerics and the laity, in accord with c. 207, §1, or simply refer to such individuals as the Christian faithful (*christifideles*).⁹² Despite its awkward phrasing, pastors should allow the celebration of Mass according to the *forma extraordinaria* for those who request it for special circumstances or occasional celebrations, including parochial vicars, priests residing in the parish, deacons, and members of the lay faithful.

4.8 – Article 5, §4: Qualifications and Impediments

Art. 5, §4. Sacerdotes Missali beati Ioannis XXIII
utentes, idonei esse debent ac iure non impediti.

Art. 5, §4. Priests who use the missal of Blessed John
XXIII must be qualified to do so and not juridically
impeded.

Priests who wish to make use of the 1962 *Missale Romanum* must be qualified or suitable (*idonei*) and not juridically impeded. The *motu proprio* does not provide criteria for

⁹¹ *Permittat* is in the form of a jussive subjective. *Summorum Pontificum*, then, contains an exhortation to pastors to permit celebrations of the *forma extraordinaria* for special circumstances (REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p. 124).

⁹² See ROTHE, *Liturgische Versöhnung*, pp. 100-101.

what constitutes the suitability to celebrate the *forma extraordinaria*.⁹³ In his accompanying letter to bishops, however, Benedict XVI indicates that use of the 1962 *Missale Romanum* presupposes “a certain degree of liturgical formation and some knowledge of the Latin language.” He acknowledges that neither of these qualities is found very often. While unfamiliarity with the 1962 *Missale Romanum* is understandable, programs of priestly formation are to ensure that candidates for the priesthood receive adequate instruction in the Latin language (*CIC/83*, c. 249).

If such instruction was lacking during seminary formation, priests who wish to celebrate Mass in Latin according to the 1962 *Missale Romanum* should be able to demonstrate a basic proficiency in the language, most especially reading comprehension and oral pronunciation. This will vary considerably throughout the Church, and the restriction contained in §4 must be strictly interpreted (cf *CIC/83*, c. 18). Attempts to limit priests from celebrating with the 1962 *Missale Romanum* on the pretense of their inability to demonstrate proficiency in Latin should be limited to the most egregious cases. It would be unjust, for instance, for a diocese to impose a standardized examination on priests who wish to celebrate with the 1962 *Missale Romanum*, especially if such demonstrative proficiency is not required for those who celebrate the Mass according to the *forma ordinaria* in Latin or for priests celebrating Mass in languages other than their mother tongue. Priests must also be familiar with the rubrical directives of the 1962 *Missale Romanum* to ensure a reverent and dignified celebration of the Mass. This would include knowledge of the prefacing *Rubricae generales*, *Ritus servandus in celebratione Missae*, *De defectibus in celebratione Missae occurrentibus*, along

⁹³ Rehak identifies the following four conditions (1) There must be no irregularities or impediments to the exercise of orders, (2) the priest must understand that the old and new uses of the Roman Rite are expressions of the *lex orandi* of the Latin church, (3) the priest must have knowledge of the rubrics in accord with c 846 §1, (4) the priest must have a command of the Latin language (REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp 130-131)

with the numerous rubrical directives contained throughout the *Missale Romanum* itself. Familiarity with these directives – most of which are available in English translation – is necessary not only for personal preparation, but also to ensure adequate instruction for all those who will assist at such Masses, especially the Masses celebrated with greater solemnity and involving the participation of numerous liturgical ministers.

Candidates for the priesthood are to be instructed diligently in those things which pertain to the sacred ministry, especially in catechetical and homiletic skills, in divine worship and the celebration of the sacraments (*CIC/83*, c. 256, §1). Now that the Roman rite is comprised of two expressions and use of the 1962 *Missale Romanum* is no longer conceded on an individual basis in the form of a privilege *contra legem*, it follows that seminarians should receive proper instruction in both the *forma ordinaria* and the *forma extraordinaria*. This will ensure their future suitability to use the 1962 *Missale Romanum* when requested by those attached to earlier liturgical traditions and when they elect to celebrate such Masses *sine populo* (*SP*, art. 2). Formation in the *forma extraordinaria* should not be limited to classroom instruction but may also include an occasional or regular celebration of Mass according to the 1962 *Missale Romanum* for the seminary community.⁹⁴

A priest may be juridically impeded from celebrating Mass – in either the *forma ordinaria* or the *forma extraordinaria* – for a variety of reasons that can be organized into two broad categories. The first category consists of a variety of juridic conditions that are a result or consequence of certain actions: (1) *Excommunication*: excommunicated persons, including priests, are forbidden to have any ministerial participation in celebrating the sacrifice of the Eucharist or any other ceremonies of worship whatsoever (*CIC/83*, c. 1331, §1, 1°).

⁹⁴ It would be for the rector of the seminary to permit the celebration of Mass according to the *forma extraordinaria* (*SP*, art 5, §5) The rector of the church attached to a seminary is the rector of the seminary itself, unless otherwise determined by the diocesan bishop (*CIC/83*, c 557, §3)

Similarly, they are forbidden to celebrate the sacraments or sacramentals and to receive the sacraments (*CIC/83*, c. 1331, §1, 2°); (2) *Interdict*: an interdicted person is also forbidden to have any ministerial participation in celebrating the sacrifice of the Eucharist or any other ceremonies of worship, including the celebration and reception of sacraments and sacramentals (*CIC/83*, c. 1332); (3) *Suspension*: in some situations, a suspension, which can only affect clerics, prohibits either all or some acts of the power of orders (*CIC/83*, c. 1333, §1, 1°); (4) *Expiatory penalties*: an expiatory penalty can be imposed on an offender either perpetually, for a prescribed time, or for an indeterminate period of time. Such penalties can deprive or prohibit the exercise of a power, office, function, right, privilege, faculty, favour, title, or insignia (*CIC/83*, c. 1336, §1, 2°-3°); (5) *Loss of the clerical state*: a cleric who loses the clerical state is prohibited from exercising the power of orders, without prejudice to the prescript of c. 976 (*CIC/83*, c. 292); (6) *Irregularities*: various circumstances may make a cleric irregular for the exercise of orders received (*CIC/83*, c. 1044); (7) *Dismissal from an institute of consecrated life*: if a clerical member is dismissed from a religious institute, a secular institute, or a society of apostolic life, he cannot exercise sacred orders until he finds a benevolent bishop to receive him into his diocese (*CIC/83*, cc. 701, 729, 746); (8) *Grave sin*: someone who is conscious of having committed a grave sin is not to celebrate Mass without previous sacramental confession unless there is a grave reason and no opportunity to confess (*CIC/83*, c. 916).

The second category of reasons a priest may be juridically impeded from celebrating Mass according to the *forma extraordinaria* is far more routine. This category considers restrictions that are not necessarily the result of any culpable act but are nonetheless contained in the law to ensure a orderly celebration of the Mass: (1) *Restriction on the number of Masses celebrated*: a priest is not permitted to celebrate the Eucharist more than once a day

except when and where permitted by law (*CIC/83*, c. 905, §1). If there is a shortage of priests, the local ordinary can allow his priests to celebrate twice a day for a just cause, or if pastoral necessity requires it, even three times on Sundays and holy days of obligation (*CIC/83*, c. 905, §2); (2) *Church of adscription*: a priest is to celebrate the sacraments according to his own rite (*CIC/83*, c. 846, §2). Ordinarily, that is, without a so-called bi-ritual faculty granted to him by the Apostolic See, a priest of an Eastern Church *sui iuris* would not be able to celebrate Mass in the *forma extraordinaria* of the Roman rite since he is not ascribed to the Latin Church *sui iuris* (cf. *CIC/83*, c. 111); (3) *Unknown priests*: if a priest is unknown to the rector of the Church, he is to provide a letter of introduction from his ordinary or superior before being permitted to celebrate Mass in the Church. If he cannot provide such a letter and it cannot be judged prudently that he is not impeded from celebrating, the unknown priest may not be admitted (*CIC/83*, c. 903).

4.9 – Article 5, §5: Duties of Rectors of Churches

Art 5, §5 In ecclesiis, quae non sunt nec parociales nec conventuales, Rectoris ecclesiae est concedere licentiam de qua supra

Art 5, §5 In churches that are not parish or conventual churches, it is for the rector of the church to grant the above permission

The rector of a church is a priest to whom is committed the care of a church which is neither parochial, nor capitular, nor connected to a house of a religious community or society of apostolic life (*CIC/83*, c. 556).⁹⁵ A church is a “sacred building designated for divine worship to which the faithful have a right of entry for the exercise, especially the public exercise, of divine worship” (*CIC/83*, c. 1214). It is the duty of the rector, among other things, to ensure that sacred functions are celebrated worthily in the church according to liturgical norms and precepts (*CIC/83*, c. 562). No one is permitted to celebrate the Eucharist, administer the sacraments, or perform other sacred functions in the Church

⁹⁵ A capitular church is one that is entrusted to a chapter of canons (cf. *CIC/83*, cc 503-510)

without the rector's permission (*CIC/83*, c. 561). Art. 5, §5, then, is largely an application of the abovementioned canons. It is for the rector to permit the celebration of Mass according to the *forma extraordinaria* in the church entrusted to his care.

Unlike a parish church which is intended for use by a stably constituted community of the Christian faithful (*CIC/83*, c. 515, §1), a church to which a rector is entrusted does not possess a stable community of believers; it is intended primarily for visitors (cf. *CIC/83*, c. 1230). While a group of the faithful may regularly worship at such churches, these remain non-parochial and the rector is not to perform regular parochial functions unless permitted or delegated by the local pastor (*CIC/83*, c. 558) or directed by the local ordinary (*CIC/83*, c. 560). It follows that rectors do not possess the same obligations as pastors.⁹⁶ Unless directed by the local ordinary to celebrate the *forma extraordinaria* (*CIC/83*, c. 560, *SP*, art. 10), rectors are not obliged to accede to the requests of a stable group of the faithful attached to earlier liturgical forms since rectors are entrusted with the care of a church rather than of a certain community of the Christian faithful. Nevertheless, in churches that are neither parochial or capitular, it is the competence of the rector to permit the celebration of Mass according to the 1962 *Missale Romanum* at the request of a stable group attached to earlier liturgical traditions (*SP*, art. 5, §1) and, for the priests and faithful who request it, to allow celebrations in the *forma extraordinaria* for special circumstances or occasional celebrations (*SP*, art. 5, §3). Just as in parishes, such celebrations may occur on any day but only once on Sundays and holy days (*SP*, art. 5, §3). Rectors of shrines should willingly permit the celebration of Mass

⁹⁶ R. Pagé observes: "Like every priest, the rector of the church participates in the priesthood of Christ, exercising the triple function of teaching, sanctifying and governing. Nonetheless, he does not exercise this triple function with respect to a specific community of faithful, as does the parish priest. What is entrusted to him primarily is not a community, but a church [...] To continue the comparison, the mission of the parish priest is defined in the Code with reference to a community of faithful, while the mission of the rector is conceived of principally with reference to the sacred building that is entrusted to him, and secondarily with reference to the faithful who frequent it" (R. PAGE, "Rectors of Churches and Chaplains," in *Exegetical Comm.*, vol. II/2, p. 1407).

in the *forma extraordinaria* for pilgrims requesting its use, especially if such pilgrims are accompanied by a suitable priest wishing to celebrate Mass in this manner.⁹⁷

4.10 – Article 6: Use of the Vernacular

Art. 6. In Missis iuxta Missale beati Ioannis XXIII celebratis cum populo, Lectiones proclamari possunt etiam lingua vernacula, utendo editionibus ab Apostolica Sede recognitis.

Art. 6. In Masses celebrated in the presence of the people in accordance with the missal of Blessed John XXIII, the readings may be given in the vernacular, using editions recognized by the Apostolic See.

Sacrosanctum concilium recognized that the use of vernacular languages may be of great advantage to the faithful (SC, n. 36, §2). This applies especially (*praesertim*) to the readings of the Mass and the prayers of the faithful but also, as local conditions warrant, to those parts belonging to the people (SC, n. 54). The present article is best seen as an application of this recommendation for Masses celebrated in the presence of the people. In such cases, the readings may be given in the vernacular, using editions recognized by the Apostolic See. There is no requirement for the readings to be proclaimed in the vernacular, just as there is no requirement that the Epistle and Gospel be first proclaimed in Latin before they could be read a second time in the vernacular.⁹⁸ The latter occurred frequently before the Second Vatican Council, especially at the principal Mass on Sundays and holy days.⁹⁹

Unlike the present arrangement of the revised liturgical books, there is no lectionary apart from the 1962 *Missale Romanum*; the readings for the Mass are thus contained within the missal itself. The readings permitted in the vernacular are those of the 1962 *Missale Romanum*. This preserves the integrity of the 1962 *Missale Romanum*, complete with its own cycle of biblical reading, but allows the “treasures of the bible to be opened up more lavishly,

⁹⁷ Strictly speaking, if a pilgrimage group was accompanied by a priest who wanted to celebrate Mass with the 1962 *Missale Romanum*, such a celebration would be regulated by *Summorum Pontificum*, arts. 2 and 4, that is, it would not require the additional permission of the rector of the church. Provided the priest can furnish a *celebret*, he is to be permitted use of the church (or a particular altar therein) by the rector (CIC/83, c. 903).

⁹⁸ ROTHE, *Liturgische Versöhnung*, p. 114.

⁹⁹ READ, “The Motu Proprio *Summorum Pontificum*,” p. 19.

so that a richer share in God's word may be provided for the faithful" (*SC*, art. 51). Rothe identifies two sources for these vernacular editions.¹⁰⁰ Firstly, earlier translations of the readings can be used, provided they were approved by the Apostolic See for liturgical use, that is, within the context of the Mass according to the *Missale Romanum* of 1962. This includes the translation contained in formerly approved liturgical books¹⁰¹ and, by logical extension, the edition of the Bible from which the translation is taken.¹⁰² Secondly, translations of sacred scripture contained in the revised lectionary may also be used. This does not allow us to infer that the revised lectionary may be used when celebrating the Mass according to the *forma extraordinaria* but only that authorized translations of holy scripture, contained in the revised liturgical books that have received the *recognitio* of the Apostolic See, may be used to obtain the relevant biblical texts contained in the cycle of readings of the 1962 *Missale Romanum*. In Canada, for example, those celebrating Mass according to the 1962 *Missale Romanum* may take the appropriate biblical passages in the vernacular from the recently promulgated *Lectionary for Sunday and Solemnities*. This edition of the lectionary utilizes

¹⁰⁰ ROTHE, *Liturgische Versöhnung*, pp. 116-117. Rehak, on the other hand, argues that art. 6 refers exclusively to vernacular translations approved before the revised lectionary during the period 1964-1969, not to the readings of the new lectionary. He recognizes that, in reality, these books are largely not available anymore (REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 145-146).

¹⁰¹ The following edition contains the appropriate biblical passages in English: *Roman Missal: Missale Romanum ex Decreto Sacrosancti Concilii Tridentini restitutum Summorum Pontificum cura recognitum cum versionibus lingua anglica exaratis et a rite approbatis actis ab Apostolica Sede confirmatis*, Washington, DC, National Catholic Welfare Conference, 1964. For a French translation of the readings of the 1962 *Missale Romanum*, see *Lectonnaire français pour tous les jours selon le Missel romain*, Paris, Desclée, 1964. Both editions were approved by the Holy See for use in Canada (see *Notitiae*, 1 [1965], p. 78; *National Bulletin on the Liturgy*, 1 [1965-1966], pp. 19-20).

¹⁰² Books of sacred scripture and their translations into the vernacular cannot be published unless approved by the Apostolic See or the conference of bishops (*CIC/83*, c. 825, §1). Rarely does the Apostolic See approve vernacular translations of the bible, this routinely occurs by conferences of bishops. Nevertheless, certain translations of scripture are indirectly approved in virtue of their inclusion in translations of liturgical books which have received the *recognitio* of the Holy See (cf. *CIC/83*, c. 838, §3).

a modified version of the New Revised Standard Version and has received the required *recognitio* of the Apostolic See.¹⁰³

Although seemingly innocuous, art. 6 is susceptible to a rather curious application. The readings for the Mass according to the 1962 *Missale Romanum* may be given in the vernacular “using editions recognized by the Holy See.” If this provision includes, as Rothe reasonably argues, (1) earlier translations of the readings, provided they were previously approved by the Apostolic See for liturgical use, and (2) translations of sacred scripture contained in the revised lectionary, it follows that the provisions for selecting vernacular texts in the *forma extraordinaria* are broader than those that exist for the *forma ordinaria*. For instance, once a conference of bishops designates a particular liturgical book for use, after receiving the *recognitio* of the Holy See, all earlier editions of that same book can no longer be lawfully used. Thus, the abovementioned *Lectionary for Sunday and Solemnities* supersedes and replaces the earlier version published in 1992 by the Canadian Conference of Catholic Bishops. It is the only edition which may be lawfully used when celebrating Mass according to the *forma ordinaria* in Canada. A comparable restriction does not appear to exist in the present article of the *motu proprio*. Priests celebrating the Mass according to the *forma extraordinaria* in the presence of the people may choose from a broad selection of vernacular translations, provided they these are editions recognized by the Holy See, including those that are no longer approved for liturgical use in the *forma ordinaria*.¹⁰⁴ In short, those attached to earlier liturgical forms can use translations of Holy Scripture in the celebration of Mass which do not conform to the present norms for translation of liturgical texts or do not make

¹⁰³ *Lectionary for Sundays and Solemnities*, Ottawa, ON, Canadian Conference of Catholic Bishops, 2009.

¹⁰⁴ It is also not entirely clear how art. 6 prevents, for illustrative purposes, a priest celebrating Mass according to the 1962 *Missale Romanum* in the United States from taking the appropriate biblical passages from the *Lectionary for Sunday and Solemnities* approved for use in Canada – an edition recognized by the Apostolic See – even though this edition may not be lawfully used for celebrations in the *forma ordinaria*.

use of modern biblical scholarship.¹⁰⁵ This provision is especially curious in light of the ongoing efforts of the Congregation for Divine Worship and the Discipline of the Sacraments to correct perceived deficiencies in the translations of liturgical books currently in use in English-speaking countries.¹⁰⁶ It may have been preferable, then, for the *motu proprio* to recognize the competency of episcopal conferences to prepare and publish, after the prior review of the Holy See, translations of liturgical books in vernacular languages (*CIC/83*, c. 838, §3). A more accurate rendering of art. 6, in accordance with the 1983 Code, would permit the proclamation of readings in the vernacular from “editions approved for use by the conference of bishops, after prior review of the Holy See.”

4.11 – Article 7: Unsatisfied Requests

Art. 7. Ubi aliquis coetus fidelium laicorum, de quo in art. 5, §1 pettam a parrocho licentiam non obtinuerit, de re certiore faciat Episcopum dioecesanum. Episcopus enixe rogatur ut eorum optatum exaudiat. Si ille ad huiusmodi celebrationem providere non vult res ad Pontificiam Commissionem «Ecclesia Dei» referatur.

Art. 7. If a group of the lay faithful, as mentioned in art. 5, §1, has not obtained satisfaction to their requests from the pastor, they should inform the diocesan bishop. The bishop is strongly requested to satisfy their wishes. If he [does not want to] arrange for such celebration to take place, the matter should be referred to the Pontifical Commission *Ecclesia Dei*.

There may be a variety of reasons why a pastor is unable or unwilling to satisfy the requests of the lay faithful attached to the earlier liturgical form. A pastor may be simply unwilling to concede to such requests due to his own unwavering opposition to earlier liturgical forms. Conversely, a pastor may be desirous to satisfy such requests but is unable

¹⁰⁵ The current norms for translation are found in CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on the use of the vernacular languages in the publication of the books of the Roman liturgy *Liturgyam authenticam*, 28 March 2001, in *AAS*, 93 (2001), pp. 685-726, English translation in *Origins*, 31 (2001-2002), pp. 17, 19-32.

¹⁰⁶ See, for example, *Liturgyam authenticam* which acknowledges deficiencies in vernacular translations. “Nevertheless, it has been noted that translations of liturgical texts in various localities stand in need of improvement through correction or through a new draft. The omissions or errors which affect certain existing vernacular translations – especially in the case of certain languages – have impeded the progress of the inculturation that actually should have taken place. Consequently, the Church has been prevented from laying the foundation for a fuller, healthier and more authentic renewal” (n. 6). See also JOHN PAUL II, Apostolic Letter on the twenty-fifth anniversary of *Sacrosanctum concilium*, *Vicesimus quintus annus*, 4 December 1988, n. 20, in *AAS*, 81 (1989), p. 916, English translation in *Origins*, 19 (1989-1990), p. 24.

to do so because he would then exceed the number of Masses permitted on one day (CIC/83, c. 905), or because he is not sufficiently proficient in Latin and/or is unfamiliar with the rubrics of the 1962 *Missale Romanum*. If the pastor is unwilling, or willing but unable, to satisfy the requests for Mass celebrated according to the *forma extraordinaria*, the stable group of the faithful has a right to inform the diocesan bishop.¹⁰⁷ Although art. 7 speaks of a group of the lay faithful contacting the diocesan bishop in the event that their pastor is unable to satisfy their requests, there is nothing prohibiting a pastor from also seeking the assistance of the diocesan bishop. This would be especially helpful if he would like to satisfy the legitimate requests of the faithful but is unable to do so for a variety of reasons. *Summorum Pontificum*, unlike the earlier provisions for use of the 1962 *Missale Romanum*, affirms the right of the faithful to participate in Mass celebrated according to the *forma extraordinaria*. It is no longer a matter of granting permission to the faithful who request such celebrations, but of an obligation to respond to their right in light of the provisions of *Summorum Pontificum*.¹⁰⁸ If denied, the faithful may take administrative recourse against such a decision, provided the case is justified.

A right is only truly guaranteed if it can be properly vindicated. The present article instructs the faithful to inform the diocesan bishop if they have not obtained satisfaction to

¹⁰⁷ It is not entirely clear why art. 7 refers to a group of the lay faithful (*coetus fidelium laicorum*) when art. 5, §1, to which it is referring, refers to a stable group of the faithful (*coetus fidelium*). A similar inconsistent use of terminology is found in art. 5, §3 (*fidelibus seu sacerdotibus*).

¹⁰⁸ ROTHE, *Liturgische Versöhnung*, pp 117-118; LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 26 Haunerland argues that there is no other document in the Church’s history, besides *Summorum Pontificum*, that has so clearly articulated enforceable rights in liturgical matters for the faithful. See HAUNERLAND, “Ein ritus in zwei ausdrucksformen?,” p. 185. This assertion requires qualification. *Redemptionis Sacramentum* also affirmed that all the faithful have a right “to lodge a complaint regarding a liturgical abuse to the diocesan Bishop or the competent Ordinary equivalent to him in law, or to the Apostolic See on account of the primacy of the Roman Pontiff” (CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be observed or avoided regarding the Eucharist *Redemptionis Sacramentum*, 25 March 2004, n. 184, in *AAS*, 96 [2004], p. 600, English translation in *Origins*, 33 [2003-2004], p. 819).

their requests from the pastor.¹⁰⁹ As noted above, the pastor's response to such a request is an act of the power of governance with the juridic nature of a singular administrative act. His refusal to permit a Mass according to the 1962 *Missale Romanum* in the parish would have the nature of a singular administrative decree (*CIC/83*, cc. 48-58). Ideally, such a decree should be issued in writing, with the reasons motivating it at least summarily expressed (*CIC/83*, c. 51). The diocesan bishop, for his part, is strongly urged (*enixe rogatur*) to satisfy their wishes. A diocesan bishop, for instance, may issue a precept, that is, "a decree which directly and legitimately enjoins a specific person or persons to do or omit something, especially in order to urge the observance of law" (*CIC*, c. 49).¹¹⁰ A precept enjoins someone to observe what is already contained in the law itself. In this case, the diocesan bishop could command a pastor, by means of a precept, to satisfy the requests for Mass according to the 1962 *Missale Romanum* for those in his parish in accordance with *Summorum Pontificum*, art. 5, §1. Since a precept is generally given against the will of a person, this may not be the most efficacious means of ensuring appropriate pastoral care but may inadvertently serve to exacerbate tensions already existing in a parish or between the pastor and those attached to earlier liturgical forms.¹¹¹ Other ways of providing for such requests include the establishment of a personal parish (*SP*, art. 10) or the appointment of a chaplain to provide pastoral care for those attached to liturgical celebrations according to the *forma extraordinaria* (*CIC/83*, c. 564). These and other solutions will be explored below.

¹⁰⁹ Included in this provision are those who preside over a territorial prelature, territorial abbacy, apostolic vicariate, apostolic prefecture, and an apostolic administration erected in a stable manner (*CIC/83*, c. 368); they are equivalent in law to a diocesan bishop (*CIC/83*, c. 381, §2).

¹¹⁰ See ROTHE, *Liturgische Versöhnung*, p. 120; LUDECKE, "Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*," p. 27.

¹¹¹ A person who disobeys a legitimate precept and persists in disobedience after a warning is subject to a just penalty (*CIC/83*, c. 1371, 2°).

An important clarification was offered in the promulgated text of *Summorum Pontificum*. The definitive text has replaced *non potest* (cannot) with *non vult* in the last sentence of the present article. It is not simply a matter of the diocesan bishop being unable to provide for such celebrations but also of his unwillingness to do so. If the diocesan bishop does not want (*non vult*) to arrange for such a celebration to take place, he is to refer the matter to the Pontifical Commission *Ecclesia Dei*. As G. Read observes, “the implication is presumably that the Commission will first try to persuade the Bishop, and, if that fails, may decide to authorize the celebration despite his opposition.”¹¹² The faithful themselves have the right to directly petition the Pontifical Commission *Ecclesia Dei*, especially if they perceive that the diocesan bishop is unwilling, or doing little, to accede to their legitimate request (cf. *CIC/83*, cc. 212, §2; 1732-1739).¹¹³

4.12 – Article 8: Difficulties with Satisfying Requests

Art. 8 Episcopus, qui vult providere huiusmodi petitionibus christifidelium laicorum, sed ob varias causas impeditur, rem Pontificiae Commissioni «*Ecclesia Dei*» committere potest, quae ei consilium et auxilium dabit.

Art. 8 A bishop desirous of satisfying such requests but who for various reasons is unable to do so may refer the problem to the Pontifical Commission *Ecclesia Dei* to obtain counsel and assistance.

In the event that a diocesan bishop does not want (*non vult*) to arrange for the celebration of Mass according to the 1962 *Missale Romanum* to take place, the matter is to be referred to the Pontifical Commission *Ecclesia Dei* (*SP*, art. 7). The present article treats of the opposite scenario, that is, a bishop desirous of satisfying such requests but unable to do so for various reasons. The most common reason a bishop may be unable to satisfy the requests for Mass celebrated according to the 1962 *Missale Romanum* is a shortage of priests or, at least, a shortage of priests properly disposed and willing to celebrate Mass in this

¹¹² READ, “Some Questions and Issues,” p. 33.

¹¹³ See ROTHE, *Liturgische Versöhnung*, p. 121; LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 27.

manner. The article instructs bishops to seek the counsel and assistance of the Pontifical Commission *Ecclesia Dei*.

It is clear that the counsel and aid offered by *Ecclesia Dei* to find a solution to the problem will depend largely on the human resources of the diocese.¹¹⁴ Assistance may be obtained from institutes dedicated the promotion of earlier liturgical forms, such as the Priestly Fraternity of St. Peter, yet these same institutes also encounter limitations on the number of apostolates they may undertake – especially in light of new demands and expectations following the promulgation of *Summorum Pontificum*. If the restrictions enunciated in c. 905 are the cause for being unable to celebrate Mass according to the 1962 *Missale Romanum*, that is, the inability to celebrate more than two Masses on weekdays and three on Sundays and holy days of obligation, the diocesan bishop may dispense in individual cases due to pastoral necessity. The Pontifical Commission *Ecclesia Dei* may also offer to coordinate conferences and workshops to provide suitable formation for those priests desirous of celebrating Mass according to the 1962 *Missale Romanum*.¹¹⁵

4.13 – Article 9, §1: Use of Earlier Rituals

Art 9, §1. Parochus item, omnibus bene perpensis, licentiam concedere potest utendi rituali antiquiore in administrandis sacramentis Baptismatis, Matrimonii, Paenitentiae et Unctionis Infirmorum, bono animarum id suadente.

Art. 9, §1. The pastor, having attentively examined all aspects, may also grant permission to use the earlier ritual for the administration of the sacraments of baptism, marriage, penance and the anointing of the sick if the good of souls would seem to require it.

¹¹⁴ See HUELS, *Liturgie et droit*, p. 278.

¹¹⁵ Cardinal Darío Castrillón Hoyos, former president of the Pontifical Commission *Ecclesia Dei*, indicated the following: “Our Pontifical Commission is planning to organize a form of assistance to seminaries, dioceses, and Bishops’ Conferences. Another prospect to be examined is to broadcast information through the media for learning about this extraordinary form of Mass with all the theological, spiritual and artistic riches that are connected with the ancient liturgy. In addition, it seems important to involve groups of priests who already use the extraordinary form and who offer either to celebrate or to describe and teach the celebration of Mass in accordance with the 1962 Missal” (G. BICCINI, “Interview with Cardinal Darío Castrillón Hoyos: A Two-fold use of the One Roman Rite,” in *L’Osservatore Romano*, weekly English Edition, 41 [9 April 2008], p. 4).

In addition to authorizing the use of the 1962 *Missale Romanum*, *Summorum Pontificum* also grants a faculty to pastors, enabling them to permit the use of the earlier ritual for the administration of the sacraments of baptism, marriage, penance, and the anointing of the sick “if the good of souls would seem to require it.” Whereas art. 5, §1 instructed pastors to willingly accept (*libenter suscipiat*) requests for Masses to be celebrated according to the *forma extraordinaria*, the present article is less strongly worded (*concedere potest*), suggesting that pastors may exercise a great deal of discretion in deciding whether to permit use of the earlier ritual.¹¹⁶ There are two conditions specified in the present article itself: (1) a pastor, *having attentively examined all aspects*, is free to grant permission to use the earlier ritual for the sacraments specified; (2) this permission is granted only *if the good of souls would seem to require it*. In other words, the faithful have no right to the administration of the sacraments celebrated according to the earlier ritual.

A pastor has no juridic obligation to satisfy the requests for use of the earlier ritual for the administration of the sacraments of baptism, marriage, penance, and the anointing of the sick. Art. 7, which instructs the faithful to inform the diocesan bishop if they have not obtained satisfaction to their requests from the pastor, refers only to art. 5, §1, that is, requests for the celebration of Mass according to the 1962 *Missale Romanum* in a parish. The placement of the present article, and the absence of any explicit reference to the provisions of art. 9, §1, suggests that the refusal of other sacraments according to the *forma extraordinaria* is excluded from art. 7. Consequently, if a pastor refuses permission for use of the earlier ritual, after considering all aspects of the issue, the lay faithful have no immediate justification for informing the diocesan bishop. Of course, if the pastor arbitrarily acts to

¹¹⁶ See also REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p 158

restrict use of the earlier ritual and has not been attentive to all aspects of the matter, recourse can be taken against his administrative decision.¹¹⁷

Summorum Pontificum, art. 9, §1 identifies four sacraments, namely, baptism, marriage, penance, and the anointing of the sick. In every instance, the former liturgical rites were expressly abrogated with the promulgation of the corresponding rites revised in light of *Sacrosanctum concilium* following the Second Vatican Council.¹¹⁸ In virtue of *Summorum Pontificum*, the legislator has now granted a faculty to pastors to permit use of the earlier ritual for the administration of these sacraments which were heretofore abrogated. The pastor may use this power himself and may grant permission to use the earlier ritual at the request of others.¹¹⁹ This change in law gives pastors a new faculty by law in virtue of their office, namely, the faculty to grant permission to use the earlier ritual for the administration of the sacraments of baptism, marriage, penance, and the anointing of the sick.

Conspicuously absent from this list is any mention of the other sacramentals which are also included in the *Rituale Romanum*, such as funerals and blessings for various occasions. It may be argued here that, since these are not explicitly permitted in *Summorum Pontificum*, the pastor is not authorized to permit such celebrations according to the *forma extraordinaria*. A more convincing argument, and one which is held by most commentators, suggests that funeral rites and other sacramentals may be celebrated according to the earlier ritual even

¹¹⁷ As Beal notes, “the range of administrative decisions [or] acts to challenge through the procedure for hierarchical recourse extends well beyond individual decrees (c. 48) and rescripts (c. 59) in the strict sense to embrace all kinds of administrative decisions. In fact, “[i]n certain circumstances, an administrative authority’s omission or failure to act can also be the object of hierarchical recourse” (BEAL, “Hierarchical Recourse,” p. 97).

¹¹⁸ In the following cases, the decree of promulgation explicitly states that the latter rite replaces the former: (1) The Rite of Christian Initiation of Adults (*AAS*, 64 [1972], p. 252); (2) The Rite of Baptism for Children (*AAS*, 61 [1969], p. 548); (3) The Rite of Penance (*AAS*, 66 [1974], pp. 172-173; and (4) The Rite of Anointing of the Sick (*AAS*, 65 [1973], pp. 275-276). The decrees promulgating the Rite of Marriage in 1969 (*Notitiae*, 5 [1969], p. 203) and the 1990 *editio typica altera* (*Notitiae*, 26 [1990], p. 300) do not explicitly state that the latter is to replace the former, although this is implied in both cases.

¹¹⁹ See HUELS, *Liturgie et droit*, pp. 278-279.

though there is no express mention of this in the *motu proprio* itself. After all, the Apostolic See alone can establish new sacramentals, authentically interpret those already received, or abolish or change any of them (*CIC/83*, c. 1167, §1). Since *Summorum Pontificum* is a favourable or permissive law, it is subject to a broad interpretation in keeping with the following rule of law: “Who is permitted more, is permitted less.”¹²⁰ In permitting use of the earlier ritual for the administration of the sacraments, that is, rites instituted by Christ, it follows that the pastor is also able to permit the celebration of any of the sacramentals of the former *Rituale Romanum*, as these are lesser rites instituted by the Church.¹²¹ While use of the earlier ritual is permitted, the present norms of the 1983 Code concerning the celebration of sacramentals (cc. 1166-1172) and ecclesiastical funerals (cc. 1176-1185) are to be observed.

Art. 9, §1 refers to the use of the “earlier ritual” (*rituale antiquior*), without identifying precisely which liturgical book may be lawfully used. Rothe argues that 1962 establishes a temporal reference point for what constitutes the Missal of the *forma extraordinaria*. By analogy, this same year can be used for determining which ritual can be lawfully used for the celebration of the sacraments according to the *forma extraordinaria*.¹²² He argues that any duly

¹²⁰ RJ 53 in VI^o: *Cui licet quod est plus, licet utique quod est minus*.

¹²¹ See HUELS, “Reconciling the Old with the New,” p. 102; HUELS, *Liturgie et droit*, p. 279; READ, “The Motu Proprio Summorum Pontificum,” p. 20; ROTHE, *Liturgische Versöhnung*, p. 138. *Sacrosanctum concilium* defines sacramentals as “sacred signs bearing a kind of resemblance to the sacraments: they signify effects, particularly of a spiritual kind, that are obtained through the Church’s intercession. They dispose people to receive the chief effect of the sacraments and they make holy various occasions in human life” (*SC*, n. 60) Huels provides a more precise juridic definition: “Sacramentals are the liturgical rites, other than the rites of the sacraments and the liturgy of the hours, which are approved by the Holy See and celebrated by designated ministers in accord with the law” (J.M. HUELS, “A Juridical Notion of Sacramentals,” in *Studia canonica*, 38 [2004], pp. 366-367)

¹²² ROTHE, *Liturgische Versöhnung*, pp. 136-137. The Bishops’ Committee on the Liturgy of the USCCB offers support for this view. In response to a question on which liturgical books may be used, the BCL responds. “The 1962 *Missale Romanum* and all other Roman liturgical rites in force in 1962” (THE BISHOPS’ COMMITTEE ON THE LITURGY, “Twenty Questions on the Apostolic Letter *Summorum Pontificum*,” in *BCL Newsletter*, 43 [2007], p. 25, n. 17). See also REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 158-159.

approved ritual in force in 1962 may be used, including the *Rituale Romanum*,¹²³ diocesan rituals, or the *Collectio Rituum*, including those already prepared in some vernacular form.¹²⁴ Huels suggests that the law does not exclude the possibility of even utilizing approved vernacular translations of the earlier ritual, such as those prepared immediately after the promulgation of *Sacrosanctum concilium* and the instruction *Inter oecumenici*.¹²⁵ The regrettable imprecision of *Summorum Pontificum* on this point may result in a variety of interpretations.¹²⁶ Without identifying a particular *editio typica* or a translation thereof, it becomes exceedingly difficult to maintain any degree of liturgical uniformity in terms of both the rites to be lawfully employed, and the appropriate use of vernacular translations. Liturgical uniformity is not an unrealistic expectation, especially in light of the uniformity observed for the *forma*

¹²³ The last *editio typica* of the *Rituale Romanum* before the Second Vatican Council was promulgated in 1952 (CONGREGATION FOR SACRED RITES, Decree promulgating a new *editio typica* of the *Rituale Romanum*, 25 January 1952, in *Ephemerides liturgicae*, 66 [1952], p. 220, *Rituale Romanum Pauli V Pontificis Maximi iussu editum aliorumque Pontificum cura recognitum atque ad normam Codicis Iuris Canonici accomodatum, SS mi DN Pii Papae XII auctoritate ordinatum et auctum*, Rome, Typis Polyglottis Vaticanis, 1952). An English translation of this edition has also been published (*The Roman Ritual in Latin and English with Rubrics and Plainchant Notation*, trans. P. T. WELLS, 3 vols., Milwaukee, WI, Bruce, 1950-1952).

¹²⁴ During the pontificate of Pius XII, bilingual rituals were increasingly approved for use in various countries. For an overview, see J. HOFINGER (ed.), *Liturgy and the Missions: The Nymegen Papers*, London, Burns & Oates, 1960, pp. 293-295; G. ELIARD, *Mass in Transition*, Milwaukee, Bruce Pub. Co., 1956, pp. 354-364; C. KOROLEVSKY, *Living Languages in Catholic Worship: An Historical Inquiry*, trans. D. ATTWATER, London, Longmans, Green and Co., 1957, pp. 109-114.

¹²⁵ HUELS, *Liturgie et droit*, p. 279. The following two bilingual editions of the earlier *Rituale* were approved for use in Canada: (1) *Collectio Rituum*, New York, Catholic Book Publishing Co., 1964; (2) *Rituel des Sacrements*, Montreal, Editions HMH Ltee, 1965. See CANADIAN CATHOLIC CONFERENCE, Second Decree of the Canadian Episcopate concerning use of the vernacular in the Liturgy, 21 December 1964, in *idem*, *Liturgical Renewal: Documents Issued by the Holy See and the Canadian Episcopate 1963-1964*, Ottawa, Canadian Catholic Conference, 1965, pp. 111-115.

¹²⁶ *Summorum Pontificum* incorrectly suggests that, following Vatican II, revised liturgical books were not promulgated until 1970. "In more recent times Vatican Council II expressed a desire that the respectful reverence due to divine worship should be renewed and adapted to the needs of our time. Moved by this desire, our predecessor the supreme pontiff Paul VI approved in 1970 reformed and partly renewed liturgical books for the Latin Church." Of course, a number of revised rites were promulgated before 1970, including (1) the *Ordo celebrandi Matrimonium* (1969), (2) the *Ordo Baptismi parvulorum* (1969), (3) the *Ordo exsequiarum* (1969). As Urdeix notes, the imprecision of *Summorum Pontificum* can result in a curious interpretation of art. 9, §1. If we use *Summorum Pontificum*'s point of demarcation, how are the abovementioned rites – the first two having been replaced by subsequent editions – juridically excluded from art. 9, §1, a provision which speaks colloquially of "earlier rituals"? See J. URDEIX, "A Proposito de 'Misal Romano' del Beato Juan XXIII (1962)," in *Phase*, n. 280 (2007), p. 308-309.

ordinaria and the present norms for the translation of liturgical texts. It may have been preferable, then, for *Summorum Pontificum* to identify a particular *editio typica*, such as the *Rituale Romanum* of 1952, for the celebration of the identified sacraments, in much the same way it prescribed use of the 1962 *Missale Romanum* for the celebration of Mass.

4.14 – Article 9, §2: Use of the *Pontificale Romanum*

Art. 9, §2. Ordinarius autem facultas conceditur celebrandi Confirmationis sacramentum utendo Pontificali Romano antiquo, bono animarum id suadente.

Art. 9, §2. Ordinaries are given the [faculty] to celebrate the sacrament of confirmation using the earlier Roman Pontifical if the good of souls would seem to require it.

Summorum Pontificum, art. 9, §2 grants to ordinaries the faculty to celebrate confirmation using the former *Pontificale Romanum*. Much like §1, the present article does not identify a particular *editio typica* of the *Pontificale Romanum*. While this omission may result in a variety of interpretations, as noted above, the present provision is sufficient for identifying an appropriate liturgical book which may be lawfully used. Before the Second Vatican Council, the *Pontificale Romanum* remained relatively unchanged after its initial promulgation in 1596. Although a revision of the *Pontificale Romanum* was promulgated in 1961, this revision concerned only the second part, that is, the principal consecrations and blessings of sacred places and objects; the remainder of the *Pontificale Romanum* was left intact. Consequently, any edition of the *Pontificale Romanum* published between the Council of Trent and the Second Vatican Council will contain the same rite of confirmation.

The title of ordinary includes diocesan bishops and others, who even if only temporarily, are placed over some particular church or a community equivalent to it according to the norm of *CIC/83*, c. 368, as well as those who possess general ordinary executive power, namely, vicars general and episcopal vicars (*CIC/83*, c. 134, §2).¹²⁷ It is

¹²⁷ For their own members, major superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right are also numbered among those known as ordinaries

surprising that the faculty is extended to ordinaries but not to other bishops, such as those who are retired.¹²⁸ The faculty conceded in *Summorum Pontificum*, art. 9, §2 exclusively concerns the use of the earlier liturgical rite. To make use of this provision, one would still need a faculty to confirm from the diocesan bishop (*CIC/83*, c. 884, §1). Huels observes that the faculty mentioned in art. 9, §2 is a non-jurisdictional faculty of the law and, consequently, it cannot be delegated.¹²⁹ Since *Summorum Pontificum* makes no provision for the diocesan bishop to delegate this faculty, priests and bishops who are not ordinaries may not celebrate confirmation according to the former *Pontificale Romanum* without an indult from the Holy See.¹³⁰

The present article includes two important qualifiers, much like those contained in art. 9, §1. Ordinaries may make use of the earlier *Pontificale Romanum* (1) for the celebration of the sacrament of confirmation; (2) if the good of souls would seem to require it. No other sacraments are identified in §2, such as Holy Orders, suggesting that the *Pontificale Romanum* cannot be licitly used for ordinations without the requisite permission of the Apostolic

(*CIC/83*, c. 134, §2). Huels argues that, since *Summorum Pontificum* makes a favourable provision, it must be interpreted broadly. Consequently, a major superior could administer confirmation – even on those who were not his subjects – according to the 1962 *Pontificale Romanum*, provided he had the requisite faculty to confirm from the diocesan bishop (*CIC/83*, c. 884, §1) See HUELS, “Reconciling the Old with the New,” p. 102.

¹²⁸ READ, “The Motu Proprio *Summorum Pontificum*,” p. 20. It may have been preferable for the *motu proprio* to explicitly permit ordinaries to delegate this non-jurisdictional faculty to others, such as retired bishops or parish priests.

¹²⁹ A non-jurisdictional faculty or authorization is a “legal empowerment, granted by means of an administrative act of the competent authority, which enables a person to perform lawfully an act of ministry or administration other than an act of the power of governance” (J.M. HUELS, *Empowerment for Ministry*, New York/Mahwah, NJ, Paulist Press, p. 32). Non-jurisdictional faculties may only be delegated if this is permitted by the law. See J.M. HUELS, “The Supply of the Faculty to Confirm in Common Error,” in *Studia canonica*, 40 (2006), pp. 322-325.

¹³⁰ HUELS, “Reconciling the Old with the New,” p. 102; HUELS, *Liturgie et droit*, p. 279, ROTHE, *Liturgische Versöhnung*, pp. 140-141. Read argues otherwise: “I do not see any reason why the diocesan Bishop could not delegate this faculty to a retired Bishop, nor, in principle, why he could not do the same to other priests since Pius XII permitted them to confirm in certain circumstances, but the document does not seem to envisage this, and it might be thought inappropriate” (READ, “The Motu Proprio *Summorum Pontificum*,” p. 20).

Sec.¹³¹ Furthermore, the earlier *Pontificale Romanum* may be used *if the good of souls would seem to require it*. In other words, ordinaries can exercise a great deal of pastoral discretion in this matter, and lay faithful have no immediate justification for informing the diocesan bishop – at least on sole basis of the pastor’s refusal to grant permission for use of the earlier *Pontificale Romanum* for the sacrament of confirmation.¹³² Of course, this does not preclude aggrieved parties from taking recourse against an arbitrary administrative decision. The use of the earlier *Pontificale Romanum* for the rite of confirmation raises several other important questions, such as the appropriate sacramental form to be used and the age at which the sacrament of confirmation is to be administered. Both of these matters are treated above in chapter two (see *supra* 2.8).

4.15 – Article 9, §3: Use of the *Breviarium Romanum*

Art. 9, §3. Fas est clericis in sacris constitutis uti etiam Breviario Romano a beato Ioanne XXIII anno 1962 promulgato.

Art. 9, §3. Clerics [..] in sacris constitutis [are allowed to] use the Roman breviary promulgated by Blessed John XXIII in 1962.

Priests and transitional deacons are obliged to carry out the liturgy of the hours daily according to the proper and approved liturgical books (*CIC/83*, c. 276, §2, 3°, 1174, §1). Members of institutes of consecrated life and societies of apostolic life are similarly bound according to the norms of their constitutions (*CIC/83*, c. 1174, §1). The approved liturgical books which may be used by clerics to fulfill this obligation now include the *Breviarium*

¹³¹ LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p. 25, footnote 105, ROTHE, *Liturgische Versöhnung*, p. 131; HUELS, *Liturgie et droit*, p. 280. The Pontifical Commission *Ecclesia Dei* has granted such faculties to institutes dedicated to observing earlier liturgical forms, such as the Priestly Fraternity of Saint Peter. See C. PERL, “Die papstliche Kommission *Ecclesia Dei*,” in S. HAERING (ed.), *In unum congregati: Festgabe für Augustin Kardinal Mayer OSB zur Vollendung des 80. Lebensjahres*, Metten, Abtei-Verlag, 1991, pp. 551-552.

¹³² Rothe suggests that if there are a number of candidates for confirmation, at least the majority should request the extraordinary form before it is employed (ROTHE, *Liturgische Versöhnung*, p. 142).

Romanum promulgated by John XXIII in 1961, the reformed *Liturgiam Horarum* promulgated by Paul VI, and any subsequently approved vernacular translation of the latter.

The use of the former *Breviarium Romanum* is not a novel innovation of *Summorum Pontificum*. In fact, continued use of the former breviary was even anticipated by Paul VI after the promulgation of the revised *Liturgiam Horarum* in 1970:

For those however who, because of advanced age or for special reasons, experience serious difficulties in observing the new rite it is lawful to continue to use the former Roman Breviary, in whole or in part, with the consent of their Ordinary, and exclusively in individual recitation.¹³³

The present article considerably broadens the provisions for use of the earlier *Breviarium Romanum*. No longer must the individual be of an advanced age or demonstrate difficulty in adopting the revised liturgical rites. All clerics – deacons, priests, and bishops – may utilize the earlier *Breviarium Romanum* for any reason without the additional consent of their ordinary. Unlike the earlier exceptions, art. 9, §3 does not restrict use of the earlier *Breviarium Romanum* to individual recitation. By analogy, if an individual community or an entire institute or society wishes to undertake the use of the earlier *Breviarium Romanum* often, habitually, or permanently, the decision must be taken by the major superiors in accordance with the law and following their own specific decrees and statutes (cf. *SP*, art. 3).¹³⁴ Although art. 9, §3 speaks only of “clerics,” religious who are not clerics may also use of the earlier *Breviarium Romanum* in order to fulfill their own obligation to recite the liturgy of the hours according to the precepts of proper law (cf. *CIC/83*, c. 663, §3). If clerics can make use of

¹³³ PAUL VI, Apostolic Constitution promulgating the revised book of the liturgy of the hours *Laudis canticum*, 1 November 1970, in *AAS*, 63 (1971), pp. 527-535, English translation in *DOL*, n. 424, p. 1090.

¹³⁴ See READ, “The Motu Proprio *Summorum Pontificum*,” p. 20.

the earlier *Breviarium Romanum* to satisfy obligations of universal law, it follows that non-clerics may do the same in order to satisfy the obligations specified in proper law.¹³⁵

Those obliged to pray the liturgy of the hours are to complete its entire course faithfully each day, respecting as far as possible the actual time of day (*CIC/83*, c. 1175). Previously, the entire course consisted of the present arrangement with the addition of the hour of prime. *Sacrosanctum concilium* called for the suppression of the hour of prime (*SC*, n. 89d) and instructed that, outside choir, it would be lawful to choose one of the three minor hours (terce, sext, none), such as the one which best corresponded to the appropriate time of day (*SC*, n. 89e). These provisions were given concrete legislative expression by means of the *motu proprio Sacram Liturgiam*:

Although the order for divine office has not yet been revised and reformed, in keeping with art. 89, those not bound by choral obligation, now have our permission, from the expiration day of the *vacatio legis*, to omit the hour of prime and to choose from among the other little hours the one best suited to the time of day (n. VI).¹³⁶

Rothe argues that clerics making use the 1961 *Breviarium Romanum* must observe the full course of hours contained in the breviary, including the hour of prime; otherwise they would fail to fulfill the obligation of c. 276, §2, 3^o.¹³⁷ This interpretation fails on two counts. Firstly, it should be recalled that the obligation to observe the hour of prime was suppressed by means of *Sacram Liturgiam*, that is, well before the revised *Liturgiam Horarum* was even promulgated. Suppression of the obligation to observe the hour of prime pertains equally to the 1961 *Breviarium Romanum* as to the revised *Liturgiam Horarum*. Secondly, a favourable, permissive law is subject to broad interpretation, relying on the rule of law: “Burdens are to

¹³⁵ Similarly, laypersons who are not members of a religious institute, and have no juridic obligation to recite the liturgy of the hours, may also use the earlier *Breviarium Romanum*, despite no explicit mention of this in art 9, §3. See ROTHE, *Liturgische Versöhnung*, p. 146

¹³⁶ Although *Sacram liturgiam*, n. VI, permitted only those exempt from choral recitation to omit the hour of prime, this was extended by Paul VI, 2 June 1965, to include those religious communities also bound to choral obligation (see *Notitiae*, 1 [1965], p. 272, English translation in *DOL*, n. 419, p. 1078).

¹³⁷ ROTHE, *Liturgische Versöhnung*, p. 146.

be restricted, and favours are to be amplified.”¹³⁸ Consequently, priests who make use of the earlier breviary, in accordance with *Summorum Pontificum*, art. 9, §3, may exclude the hour of prime and observe only one of the minor hours each day, while fulfilling the obligation of c. 276, §2, 3°. Although clerics who make use of the *Breviarium Romanum* of 1961 have no juridic obligation to observe the hour of prime or all three of the minor hours, they may do so if they wish.

4.16 – Article 10: Personal Parishes, Chaplains, and Rectors

Art. 10. Fas est Ordinatio loci, si opportunum iudicaverit, parocciam personalem ad normam canonis 518 pro celebrationibus iuxta formam antiquiorem ritus Romani erigere aut rectorem vel cappellanum nominare, servatis de iure servandis.

Art. 10. The [local ordinary], if he feels it [opportune], [is allowed to] erect a personal parish in accordance with canon 518 for celebrations following the ancient form of the Roman rite or appoint a [rector or] chaplain, while observing all the norms of law.

The present article is a tacit acknowledgment that it may not be possible, for a variety of reasons, to celebrate Mass according to the *forma extraordinaria* in all parishes. In the event of such circumstances, art. 10 identifies three options for the local ordinary to satisfy the needs of those faithful attached to earlier liturgical forms: (1) the erection of a personal parish; (2) the appointment of a chaplain; and (3) the designation of a church, entrusted to a rector, for the celebration of the *forma extraordinaria* in the diocese or a portion thereof.

A parish is “a certain community of the Christian faithful stably constituted in a particular church, whose pastoral care is entrusted to a pastor (*parochus*) as its proper pastor (*pastor*) under the authority of the diocesan bishop” (*CIC/83*, c. 515, §1). As a general rule, a parish is to be territorial, that is, one that includes all the Christian faithful of a certain territory. When it is expedient, however, “personal parishes are to be established determined by reason of rite, language, or nationality of the Christian faithful of some territory, or even for some other reason” (*CIC/83*, c. 518). The option of erecting a personal parish, as

¹³⁸ See RJ 15 in *VP*. “*Odia restringi, et favores convenit ampliari.*”

identified in art. 10, already exists in the law without the additional provision of *Summorum Pontificum* (cf. *CIC/83*, c. 518). The present article, however, makes a notable derogation from the law. The 1983 Code specifies that it is only for diocesan bishops “to erect, suppress, or alter parishes” (*CIC/83*, c. 515, §2). Before doing so, the diocesan bishop must hear the presbyteral council. *Summorum Pontificum*, art. 10, however, permits a local ordinary, if he feels it opportune, to erect a personal parish.

This change in law is curious for three reasons. Firstly, a notable derogation of c. 515, §2 of the 1983 Code of Canon Law has occurred by means of an Apostolic letter *motu proprio* pertaining to use of the pre-conciliar liturgical rites. This does not appear to be the most appropriate legislative venue for making a significant change in law concerning the erection of parishes. Secondly, the subject capable of erecting a personal parish has been extended to include local ordinaries, although it appears that the diocesan bishop alone remains competent to alter or suppress these same parishes.¹³⁹ Divorcing the erection of parishes from their alteration and suppression is rather unusual, yet this is precisely what art. 10 accomplishes. Thirdly, a function of the presbyteral council has been curtailed by this derogation of law. Presbyteral councils exist to assist the diocesan bishop – not all local ordinaries – in the governance of the diocese. They serve as a “senate of the bishop” to promote, as much as possible, “the pastoral good of the portion of the people of God entrusted to him” (cf. *CIC/83*, c. 495, §1).¹⁴⁰ The present article, without requiring any additional consultation of the presbyteral council, allows local ordinaries to erect a personal parish. This change in law is regrettable for it not only diminishes an important function of

¹³⁹ The following are considered “local ordinaries:” (1) The Roman Pontiff; (2) diocesan bishops; (3) those placed over an ecclesiastical circumscription equivalent in law to a diocese, namely a territorial prelature, territorial abbacy, apostolic vicariate, apostolic prefecture, and an apostolic administration erected in a stable manner (*CIC/83*, c. 368); (4) vicars general; and (5) episcopal vicars (see *CIC/83*, c. 134, §2).

¹⁴⁰ It is quite likely that vicars general and episcopal vicars – both local ordinaries – may be *ex officio* members of the presbyteral council according to the norm of the statutes (*CIC/83*, c. 497, 2^o).

the presbyteral council in a matter with significant consequences in the life of a particular church, but it also removes from the diocesan bishop a prerogative that he appropriately and exclusively enjoyed.¹⁴¹ It is likely that this derogation was unintentional, yet a change in law seems to have legitimately occurred by means of the present article.¹⁴²

The second option identified in the present article consists in the appointment of a chaplain. A chaplain is “a priest to whom is entrusted in a stable manner the pastoral care, at least in part, of some community or particular group of the Christian faithful” (*CIC/83*, c. 564). In this case, a chaplain can be appointed to celebrate the Mass and the other sacraments for those attached to earlier liturgical forms and entrusted to his care. A chaplain *per se* is not entrusted with the care of a church or oratory. The chaplain, however, could move freely throughout the diocese, or a portion thereof, to ensure that all those attached to earlier liturgical forms are provided proper pastoral assistance. Besides the faculties obtained in virtue of the law itself, additional faculties which proper pastoral care requires can be granted by the local ordinary (*CIC/83*, c. 566, §1).¹⁴³

One final option permits the local ordinary to appoint a rector of a non-parochial church or oratory for the frequent or occasional celebration of Mass according to the *forma extraordinaria*, as circumstances suggest.¹⁴⁴ This is largely an application of an existing

¹⁴¹ The 1917 Code had reserved the erection of personal parishes to the Holy See (*CIC/17*, c. 216, §4). The Second Vatican Council, conversely, affirmed that the diocesan bishop acts “on his own authority” in the erection, suppression, and alteration of parishes (*CD*, n. 32).

¹⁴² Rehak argues that to be consistent with the Code, the only local ordinary who can erect a parish or appoint a rector is the diocesan bishop. *Summorum Pontificum* must be read restrictively in this sense (REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, p. 170).

¹⁴³ For a consideration of sample faculties which may be appropriately granted to chaplains with full care of a community, see J.M. HUELS, *Empowerment for Ministry*, New York/Mahwah, NJ, Paulist Press, pp 127-156.

¹⁴⁴ Unlike chaplains, who are appointed by the *local ordinary*, rectors of churches are freely appointed by the *diocesan bishop* (*CIC/83*, c. 557, §1). Again, it appears that *Summorum Pontificum*, art. 10, has inadvertently derogated from the law by allowing rectors to be appointed by local ordinaries.

provision of the 1983 Code, permitting the local ordinary to “order a rector to celebrate in his church particular functions, even parochial ones, for the people and to make the church available for certain groups of the Christian faithful to conduct liturgical celebrations there” (*CIC/83*, c. 560). The rector of this church or oratory would be responsible for celebrating Mass for those attached to earlier liturgical forms, either personally or by designating another. Although additional sacramental rites are not excluded, a rector is not permitted to perform parochial functions without obtaining the consent of the pastor (*CIC/83*, c. 558) or local ordinary (cf. *CIC/83*, c. 560).

4.17 – Articles 11 and 12: The Pontifical Commission *Ecclesia Dei*

Art 11. Pontificia Commissio «Ecclesia Dei» a Ioanne Paulo II anno 1988 erecta, munus suum adimplere pergit. Quae Commissio formam, officia et normas agenda habeat, quae Romanus Pontifex ipsi attribuere voluerit.

Art 11. The Pontifical Commission *Ecclesia Dei*, erected by John Paul II in 1988, continues to exercise its function. Said commission will have the form, duties and norms that the Roman Pontiff wishes to assign it.

Art. 12. Eadem Commissio, ultra facultates quibus iam gaudet, auctoritatem Sanctae Sedis exercent, vigilando de observantia et applicatione harum dispositionum.

Art. 12. This commission, apart from the powers it enjoys, will exercise the authority of the Holy See, supervising the observance and application of these dispositions.

The Pontifical Commission *Ecclesia Dei* was erected following the illicit episcopal ordinations conferred by Mgr Marcel Lefebvre in 1988. In an apostolic letter *motu proprio* of the same name, John Paul II established the following:

- a) a *Commission* is instituted whose task it will be to collaborate with the bishops, with the Departments of the Roman Curia and with the circles concerned, for the purpose of facilitating full ecclesial communion of priests, seminarians, religious communities or individuals until now linked in various ways to the Fraternity founded by Mons Lefebvre, who may wish to remain united to the Successor of Peter in the Catholic Church, while preserving their spiritual and liturgical traditions, in the light of the Protocol signed on 5 May last by Cardinal Ratzinger and Mons. Lefebvre,
- b) this Commission is composed of a Cardinal President and other members of the Roman Curia, in a number that will be deemed opportune according to circumstances;
- c) moreover, respect must everywhere be shown for the feelings of all those who are attached to the Latin liturgical tradition, by a wide and generous application of the directives already issued some time ago by the Apostolic See for the use of the Roman Missal according to the typical edition of 1962 (n. 6).¹⁴⁵

¹⁴⁵ JOHN PAUL II, Apostolic Letter *motu proprio Ecclesia Dei*, 2 July 1988, in *AAS*, 80 (1988), pp. 1495-1498, English translation in *CLD*, 12, pp. 805-808.

In light of the particular tasks entrusted to it, the Pontifical Commission *Ecclesia Dei* was granted special faculties both to address the needs of the faithful attached to earlier liturgical forms and to facilitate full ecclesiastical communion with the followers of Mgr Lefebvre.¹⁴⁶

In response to repeated requests from the superior general of the Society of St. Pius X, the excommunications of the four bishops illicitly consecrated by Mgr Marcel Lefebvre were remitted on 21 January 2009.¹⁴⁷ Regrettably, this act of “paternal compassion” was immediately overshadowed by a revelation of earlier unrelated remarks made by one of the bishops of the SSPX, Richard Williamson, concerning the Shoah.¹⁴⁸ In an unusual move, Benedict XVI addressed a letter to all bishops in which he acknowledged that his gesture of reconciliation was perceived as its very antithesis, that is,

an apparent step backward with regard to all the steps of reconciliation between Christians and Jews taken since the council – steps which my own work as a theologian had sought from the beginning to take part in and support. That this overlapping of two opposed processes took place and momentarily upset peace between Christians and Jews as well as peace within the church is something which I can only deeply deplore.¹⁴⁹

¹⁴⁶ PONTIFICAL COMMISSION ECCLESIA DEI, *Rescriptum ex auctoritate Sanctissimi* concerning faculties entrusted to the Pontifical Commission, 18 October 1988, in *AAS*, 82 (1990), pp. 533-534, English translation in *CLSGBI Newsletter*, 77 (1989), pp. 19-20.

¹⁴⁷ CONGREGATION FOR BISHOPS, Decree remitting the excommunication of bishops consecrated by Lefebvre, 21 January 2009, in *L'Osservatore Romano*, vol. 149, no. 20 (25 January 2009), p. 1, English translation in *Origins*, 38 (2008-2009), pp. 533-534. The remission of the excommunications also raised a number of questions concerning the juridical status of the SSPX and the ministry exercised by its adherence. For a brief treatment of this topic, see C.J. GLENDINNING, “Attendance at Masses Celebrated by Priests of the Society of St. Pius X,” in S.M. VERBEEK (ed.), *Roman Replies and CLSA Advisory Opinions*, Washington, DC, Canon Law Society of America, 2009, pp. 120-126.

¹⁴⁸ After the Holy See became aware of Williamson’s denial of the Shoah, the Secretariat of State issued a statement which indicated, among other things, the following. “The positions of Bishop Williamson with regard to the Shoah are absolutely unacceptable and firmly rejected by the Holy Father [...] In order to be admitted to function as a bishop within the church, Bishop Williamson must also distance himself in an absolutely unequivocal and public way from his positions regarding the Shoah, which were unknown to the Holy Father at the time of the remission of the excommunication” (SECRETARIAT OF STATE, Note concerning the remitting of excommunication of SSPX bishops, 4 February 2009, in *L'Osservatore Romano*, vol. 149, no. 29 [5 February 2009], p. 1, English translation in *Origins*, 38 [2008-2009], pp. 569-570).

¹⁴⁹ BENEDICT XVI, Letter to bishops on the lifting of the excommunication of Lefebvrite bishops, 10 March 2009, in *AAS*, 101 (2009), pp. 270-276, English translation in *Origins*, 38 (2008-2009), pp. 645-649, here p. 646.

By means of this same letter, Benedict XVI expressed his intention to join the Pontifical Commission *Ecclesia Dei* to the Congregation for the Doctrine of the Faith. In so doing, Benedict XVI intended to make clear that the outstanding problems to be addressed with the SSPX “are essentially doctrinal in nature and concern primarily the acceptance of the Second Vatican Council and the post-conciliar magisterium of the popes.”¹⁵⁰ Exactly twenty-one years after the erection of the Pontifical Commission *Ecclesia Dei*, Benedict XVI reconfigured the commission in the following manner:

- a) The president of the commission is the prefect of the Congregation for the Doctrine of the Faith.
- b) The commission, with its own allocation of staff, is composed of the secretary and officials.
- c) The task of the cardinal president, assisted by the secretary, is to refer the principal cases and doctrinal questions to the judgement of the Congregation for the Doctrine of the Faith through its ordinary procedures and to submit the results thereof to the superior dispositions of the supreme pontiff (n. 6)¹⁵¹

Although *Ecclesiae unitatem* only identifies the doctrinal task newly assigned to the Pontifical Commission *Ecclesia Dei*, it continues to exercise the authority of the Holy See in supervising the observance and application of the dispositions of *Summorum Pontificum* (SP, art. 12). Similarly, although some of the faculties previously granted to the Pontifical Commission *Ecclesia Dei* are largely redundant in light of the new provisions of *Summorum Pontificum*, it presumably continues to possess the other faculties it previously enjoyed.¹⁵² The concession

¹⁵⁰ Ibid., p. 647.

¹⁵¹ BENEDICT XVI, Apostolic letter *motu proprio* reconfiguring the Pontifical Commission *Ecclesia Dei, Ecclesiae unitatem*, 2 July 2009, in *AAS*, 101 (2009), pp. 710-711, English translation in *Origins*, 39 (2009-2010), pp. 161-163. In virtue of the abovementioned *motu proprio*, William Cardinal Levada, prefect of the Congregation for the Doctrine of the Faith, succeeded Darío Cardinal Castrillón Hoyos as president of the pontifical commission. The former secretary, Msgr. Camille Perl, was similarly succeeded by Msgr. Guido Pozzo.

¹⁵² Faculties which are no longer necessary include: (1) the faculty to permit use of the 1962 *Missale Romanum* from those who request it, (2) the faculty to erect the Priestly Fraternity of St. Peter as a clerical society of apostolic life, along with a seminary; and (3) the faculty to erect an institute of consecrated life or society of apostolic life dedicated to the former liturgical tradition. Other faculties remain useful in light of the tasks presently assigned to *Ecclesia Dei*, such as the faculty to dispense from the irregularities mentioned in c. 1044, §1, 1° and 2° and the faculty to grant a *sanatio in radice* for marriage invalid due to a defect of canonical form (see 3.3.4.1 above).

of additional faculties by the Roman Pontiff may be necessary for the correct application of the *motu proprio*, a possibility explicitly foreseen in art. 11.

Two additional tasks of the Pontifical Commission *Ecclesia Dei* can be identified in Benedict XVI's accompanying letter to bishops. Firstly, Benedict XVI acknowledges that the two forms of the Roman Rite may be mutually enriching:

New saints and some of the new prefaces can and should be inserted into the old missal. The *Ecclesia Dei* commission, in contact with various bodies devoted to the *usus antiquior*, will study the practical possibilities in this regard.

Presumably, consultation would also extend to the Congregation for Divine Worship and the Discipline of the Sacraments, since to this congregation belongs whatever pertains to the Apostolic See concerning the regulation and promotion of the sacred liturgy (*PB*, n. 62). Secondly, Benedict XVI invites bishops to send to the Holy See an account of their experiences, three years after *Summorum Pontificum* will have taken effect, that is, by 14 September 2010. Although it is not explicitly identified in this matter, it would seem that the Pontifical Commission *Ecclesia Dei* will have an important role to play in the gathering, viewing, and evaluating of the reports sent by the bishops.¹⁵³

Conclusion

Moved by a concern for the pastoral care of the faithful attached to earlier liturgical forms, Benedict XVI attempted, by means of *Summorum Pontificum*, to provide a comprehensive juridic framework for the continued use of pre-conciliar liturgical rites. These new norms far exceed all earlier provisions for use of the 1962 *Missale Romanum*. No longer must one seek a privilege *contra legem*. Rather, its use constitutes the *forma extraordinaria* of the Roman Rite and must be given “due honour for its venerable and ancient usage” (*SP*, art. 1).

¹⁵³ HUELS, *Liturgie et droit*, p. 282; READ, “The Motu Proprio *Summorum Pontificum*,” p. 21; ROTHE, *Liturgische Versöhnung*, p. 166.

If the requests from the faithful for such celebrations are not satisfied, *Summorum Pontificum* ensures the possibility for hierarchical recourse. These provisions are generous but not without difficulties. Many of these difficulties have been identified throughout the chapter.

While *Summorum Pontificum* has allowed for use of the 1962 *Missale Romanum* along with additional pre-conciliar sacramental rites, it does so well within the juridic framework of post-conciliar legislation, most especially the provisions of the 1983 Code of Canon Law and all subsequent liturgical legislation. Reconciling these two bodies of law or, more accurately, determining which law prevails in any given circumstance is not as easy as it may appear.¹⁵⁴ To insist that all post-conciliar legislation applies equally to the celebration of these earlier liturgical rites risks compromising their integrity, that is, the very thing *Summorum Pontificum* is attempting to preserve and enhance. Conversely, to insist that these earlier liturgical rites are governed exclusively by the laws in place before the Second Vatican Council threatens to introduce considerable confusion into the juridic order of the Latin Church *sui iuris*.¹⁵⁵ Furthermore, when *Summorum Pontificum* was promulgated, the principal objection raised – recognized by Benedict XVI himself – was that the *motu proprio* detracted from the authority of the Second Vatican Council. Beyond liturgical considerations, it was perceived that the

¹⁵⁴ For instance, the *Rubricae generales*, which prefaced the 1962 *Missale Romanum*, were explicitly abrogated, and *Summorum Pontificum* makes no claim otherwise. See CONGREGATION FOR SACRED RITES, Decree promulgating the *editio typica* of the *Ordo Missae* and General Instruction of the Roman Missal *Ordine Missae*, 6 April 1969, in *Notitiae*, 5 (1969), p. 147, English translation in *DOL*, n. 203, p. 461. It would be absurd, however, to insist that these rubrics lack the force of law. Without the appropriate rubrics, it would be impossible to properly celebrate Mass according to the *forma extraordinaria*.

¹⁵⁵ *A via media* has also been proposed, again not without its own difficulties: “The canonical principle advocated, then, is that in disciplinary laws that do not affect the rites themselves (such as what is required for the construction of a tabernacle, or when one is obliged to preach a homily), it is perfectly clear that the prescriptions of the 1983 Code are to be followed without prejudice. However, where the liturgical rites and requirements would themselves be affected (such as the requirement that an altar stone be used for Mass, or the restriction on when an Assistant Priest may act at Mass), the provisions of the 1917 Code ought to be followed and indeed be regarded as liturgical laws (under canon 2 of the 1983 Code). See A. REID, Introduction to A. FORTESCUE, J.B. O’CONNELL, and A. REID (eds.), *The Ceremonies of the Roman Rite Described*, 15th ed., London, Burns & Oates, 2009, p. 19 (=REID, *The Ceremonies of the Roman Rite Described*). Besides ignoring the fact the 1917 Code has been explicitly abrogated (*CIC/83*, c. 6, §1, 1^o), the examples provided by the author only serve to obscure the distinction being made.

motu proprio may result, even unintentionally, in wide-ranging consequences for the life of the Church and its relationship to the world. These, and other considerations, will comprise the subject matter of our fifth and final chapter.

CHAPTER V

CHALLENGES POSED BY *SUMMORUM PONTIFICUM*

Introduction

The 1962 *Missale Romanum* has been consistently used, in one form or another, since the promulgation of the revised *Missale Romanum* of Paul VI. This occurred in virtue of either a privilege *contra legem* – the so-called indult – or as an exception contained within the law itself. Provided that these celebrations remained exceptions and were confined to a relatively small number of the faithful, it remained unnecessary to reconcile the use of these liturgical rites with the *ius vigen*s. Now that *Summorum Pontificum* has significantly altered the juridic context in which these earlier rites are celebrated, an examination of the numerous ancillary issues raised by the *motu proprio* assumes greater importance.

The chapter begins with two of the most difficult issues, namely, the authoritative nature of the Second Vatican Council and the observance of abrogated liturgical laws. Although both of these issues have surfaced in a variety of ways in preceding chapters, it is appropriate, in this final chapter, to offer a synthesis and resolution. Additional challenges follow thereafter, many of which have become the principal objections to the *motu proprio* itself. These include a consideration of the role of the diocesan bishop as moderator of the liturgical life of his diocese; the continued conferral of minor orders, especially in light of *Ministeria quaedam*; the implications of customary law and the observance of contrary customs; the unity of the Roman rite as an expression of the unity of the Church; and, finally, the importance of the full, conscious, and active participation of the faithful in the liturgy. Although it is impossible to anticipate all objections to *Summorum Pontificum* or identify and resolve individual pastoral concerns, the topics considered in this chapter were selected on the basis of three criteria: anticipated recurrence, liturgical and pastoral

significance, and, most especially, juridic importance. Resolution of these matters is imperative so as to avoid disarray within parish communities, to prevent the imposition of arbitrary disciplinary restrictions, and to promote, in some small way, the “mutual enrichment” of both forms of the Roman rite.¹

5.1 – Authority of the Second Vatican Council

As noted above in chapter III, the teachings of the Second Vatican Council are an authentic expression of the ordinary and universal magisterium exercised by the college of bishops solemnly assembled in an ecumenical council. To these teachings the faithful are to adhere with religious submission of will and intellect (see 3.2.1. above; cf. *CIC/83*, c. 752). By permitting the use of the 1962 *Missale Romanum*, along with earlier rituals and the *Pontificale Romanum* – liturgical books promulgated before the Second Vatican Council – *Summorum Pontificum* permits a broad use of liturgical rites that may not reflect the teachings and principles enunciated at the Council. The most obvious example of this, of course, is the Council’s explicit request that the liturgical books be reformed, so as to permit, among other things, a greater participation of the faithful (*SC*, n. 14), a broader use of the vernacular (*SC*, n. 36), and a more extensive use of sacred scripture (*SC*, n. 24). Oddly, it is precisely that which appears to be in direct contravention of the Second Vatican Council – the continued use of the 1962 *Missale Romanum* – which is itself authorized by the express mandate of the Roman Pontiff. There are indications, however, that Benedict XVI is willing to revise, at least partially, the 1962 *Missale Romanum* so as to bring it into conformity with the teachings of the Church, most especially those of the Second Vatican Council. Two examples are examined below, the first in reference to the revised Good Friday Prayer for the Jews, and

¹ See BENEDICT XVI, Letter to bishops, p. 133

the second concerning the inclusion and adaptation of various texts of the 1962 *Missale Romanum*.

5.1.1 – Good Friday Prayer for the Jews

Even before the promulgation of *Summorum Pontificum*, concerns – even claims of anti-Semitism – were raised in light of the prayer *pro conversione Iudaeorum*, one of the *orationes solemnes* for the Good Friday liturgy. It was alleged that the intercession poorly reflected the significant advances made since the Second Vatican Council between the Church and the Jewish people.² The prayer contained in the 1962 *Missale Romanum*, and the subject of much controversy, reads as follows:

8. Pro conversione Iudaeorum

Oremus et pro Iudaeis: ut Deus et Dominus noster auferat velamen de cordibus eorum, ut et ipsi agnoscant Iesum Christum Dominum nostrum

Oremus. Flectamus genua. Levate.

Omnipotens sempiternae Deus, qui Iudaeos etiam a tua misericordia non repellis: exaudi preces nostras, quas pro illius populi obcaecatione defertimus, ut, agnita veritatis tuae luce, quae Christus est, a suis tenebris eruantur. Per eundem Dominum. R./Amen.³

The 1962 *Missale Romanum* merely incorporated the revised prayer first used in 1959, that is, on the authority of John XXIII.⁴ Prior to this reform, the prayer for the conversion of the

² See, for example, A.J. CERNERA, E. KORN, “The Latin Liturgy and the Jews,” in *America*, 197 (8 October 2007), pp. 10-13; N.D. MITCHELL, “Remembering the Jewish People in Christian Prayer,” in *Worship*, 82 (2008), pp. 357-371; J.T. PAWLKOWSKI, J. BANKI, “Praying for the Jews. Two Views on the New Good Friday Prayer,” in *Commonweal*, 135 (14 March 2008), pp. 10-12.

³ An approved English translation of this prayer is as follows. “Let us pray, also, for the Jews, that our God and Lord may remove the veil from their minds, so that they, too, may acknowledge Jesus Christ our Lord [. . .] Almighty, eternal God, who do not deprive the Jews of your mercy, hear the prayers we offer for the blindness of that people. that, acknowledging the light of your truth, which is Christ, they may be delivered from their darkness. Through the same. Amen.” (*Roman Missal. Missale Romanum ex decreto Sacrosancti Concilii Tridentini restitutum summorum pontificum cura recognitum cum versionibus lingua Anglica exaratis et a rite approbatis actis ab Apostolica Sede confirmatis*, Novi Eboraci, Benziger Brothers, 1964, p. 189b)

⁴ See *Ephemerides liturgicae*, 74 (1960), p. 133, English translation in *CLD*, 5, p. 20. It seems that changes to this prayer were precipitated by John XXIII himself – even before they were given juridic expression. “Soon after his election, John XXIII had interrupted the Good Friday liturgy in St. Peter’s when one of the celebrants used the word ‘perfidious’ in reference to Jews. John had the prayer repeated with the word omitted” (M.

Jews contained language – “perfidī Judaei” and “judaica perfidia,”⁵ – which, when translated into the vernacular, was particularly offensive.⁶ The rubrics had also instructed that, after the introduction to this prayer, *Oremus* was not to be said and the genuflection – common to all other *orationes solemnes* – was notably absent. These rubrics were modified by means of the *Ordo Hebdomadae sanctae instauratus* of 1955⁷ and eventually incorporated into the 1962 *Missale Romanum*.

After recalling that the Church cannot “forget that she draws sustenance from the root of that well-cultivated olive tree onto which have been grafted the wild shoots, the Gentiles,” along with repudiating the oft-repeated charge of deicide, *Nostra aetate* affirms:

Indeed, the Church reproves every form of persecution against whomsoever it may be directed. Remembering, then, her common heritage with the Jews and moved not by any political consideration, but solely by the religious motivation of Christian charity, she deplores all hatreds, persecutions, displays of anti-Semitism, leveled at any time or from any source against the Jews.⁸

PHAYER, *The Catholic Church and the Holocaust, 1930-1965*, Bloomington/Indianapolis, IN, Indiana University Press, 2000, p. 209)

⁵ The following prayer, contained in the *Missale Romanum* of 1570, was used until it was formally revised in 1959: “Oremus et pro perfidis iudeis ut Deus [et] noster auferat valamen de cordibus eorum ut [et] ipsi agnosca[n]t Jesum Christum Dominum nostrum. *Non respondetur Amen, sed statim dicitur:* Omnipotens sempiternus Deus, qui etiam iudaicam perfidiam a tua misericordia no[n] repellis exaudi preces nostros, quas pro illius populi ob[sc]uratione defenimus ut agnita veritatis tu[ae] luce Christus est, a suis tenebris eruantur. Per eundem Dominum R/ Amen (M. SODI, A. M. TRIACCA, *Missale Romanum, editio princeps (1570) edizione anastatica, introduzione e appendice*, Vatican City, Libreria Editrice Vaticana, 1998, p. 192, nn. 1239-1240).

⁶ The Congregation for Sacred Rites acknowledged as early as 1948 that the words “perfidī Judaei” and “judaica perfidia,” when translated into the vernacular, often gave rise to offense, most especially to Jewish people. The congregation had no objection to the use of alternative translations. It stated: “Non improbari, in translationibus in linguas vulgares locutiones quarum sensus fit infidelitas, infideles in credendo.” See CONGREGATION FOR SACRED RITES, Declaration concerning the translation of liturgical prayers regarding Jews, 10 June 1948, in *AAS*, 40 (1948), p. 342, English translation in *CLD*, 3, pp. 575-576. For more information on the use of these terms in the liturgy and reasons for their abolition, see O. PISANO, “A cinquant’anni dalla soppressione del «perfidis Judaeis» Note storiche alla luce di materiali d’archivio inediti,” in *Rivista liturgica*, 96 (2009), pp. 937-967.

⁷ CONGREGATION FOR SACRED RITES, General decree promulgating the *editio typica* of the restored order of Holy Week *Maxima redemptionis nostrae mysteria*, with an accompanying instruction, 16 November 1955, in *AAS*, 47 (1955), pp. 838-847, English translation in *CLD*, 4, pp. 49-61, *Ordo Hebdomadae Sanctae instauratus, editio typica*, Rome, Typis Polyglottis Vaticana, 1956.

⁸ SECOND VATICAN COUNCIL, Declaration on the relation of the Church to non-Christian religions *Nostra aetate*, 28 October 1965, in *AAS*, 58 (1966), pp. 740-744, English translation in *FLANNERY1*, p. 741.

In light of this declaration, the Prayer for the Jews, contained in the 1962 *Missale Romanum*, was revised yet again. For the first time, the prayer was not entitled “For the Conversion of the Jews” (*Pro conversione Iudaeorum*) but simply “For the Jews” (*Pro Iudaeis*). According to the accompanying decree from the S.C. of Rites, the Order of Holy Week was changed “to be more in accord with the mind and decrees of Vatican Council II regarding ecumenism.”⁹ A reformulated prayer, included in the *Missale Romanum* promulgated by Paul VI and all subsequent editions, remains in use for Good Friday liturgical celebrations according to the *forma ordinaria*.¹⁰

The most problematic issue still unresolved today is whether and, more especially, how the Church’s evangelizing mission extends to the Jewish people.¹¹ It should come as no surprise, then, that the prayer contained in the 1962 *Missale Romanum* – a prayer explicitly calling for the conversion of the Jews – should provoke interest and attract some degree of protestation. Shortly after the promulgation of *Summorum Pontificum* and in light of the continued use of the prayer *pro conversione Iudaeorum* in the 1962 *Missale Romanum*, the Secretariat of State issued a note indicating Benedict XVI’s disposition to replace the prayer with the following text:

⁹ CONGREGATION FOR SACRED RITES, Decree promulgating the text of changes in the Order of Holy Week *Quamplures Episcopi*, 7 March 1965, in *AAS*, 57 (1965), pp. 412-413, English translation in *DOL*, n. 454, p. 1186; *Variationes in ordinem hebdomadae sanctae inducendae*, editio typica, Typis Polyglottis Vaticanis, 1965. The prayer was formulated as follows: “Oremus et pro Iudaeis: ut Deus et Dominus noster faciem suam super eos illuminare dignetur; ut et ipsi agnoscant omnium Redemptorem, Iesum Christum Dominum nostrum. Oremus. Flectamus genua. Levate. Omnipotens sempiternus Deus, qui promissiones tuas Abrahae et semini eius contulisti: Ecclesiae tuae preces clementer exaudi; ut populus acquisitionis antiquae ad Redemptionis mereatur plenitudinem pervenire. Per Dominum. Amen.”

¹⁰ The text of the prayer is as follows: “VI Pro Iudaeis: Oremus et pro Iudaeis, ut, ad quos prius locutus est Dominus Deus noster, eis tribuat in sui nominis amore et in sui foederis fidelitate proficere. *Oratio in silentio. Deinde sacerdos:* Omnipotens sempiternus Deus, qui promissiones tuas Abrahae eiusque semini contulisti, Ecclesiae tuae preces clementer exaudi, ut populus acquisitionis prioris ad redemptionis mereatur plenitudinem pervenire. Per Christum Dominum nostrum. Amen (*Missale Romanum ex decreto sacrosancti oecumenici Concilii Vaticani II instauratum, auctoritate Pauli Pp. VI promulgatum, cura Ioannis Pauli Pp. II recognitum, editio typica tertia*, Typis Vaticanis, 2002, p. 319).

¹¹ For an overview of this debate, see J.T. PAWLIKOWSKI, “Nostra Aetate: Its Continuing Challenges,” in *Marianum*, 171-172 (2007), pp. 387-415.

Oremus et pro Iudaeis

Ut Deus et Dominus noster illumet corda eorum, ut agnoscant Iesum Christum salvatorem omnium hominum Oremus Flectamus genua Levate Omnipotens sempiternae Deus, qui vis ut omnes homines salvi fiant et ad agnitionem veritatis veniant, concede propitius, ut plenitudine gentium in Ecclesiam Tuam intrante omnis Israel salvus fiat Per Christum Dominum nostrum Amen ¹²

Henceforth, this text is to be used for all liturgical celebrations of Good Friday celebrated according to the 1962 *Missale Romanum*. Despite the reformulation, concerns were still expressed that the new prayer itself did not conform to the teachings of the Second Vatican Council, necessitating a further clarification from the Holy See:

Following the publication of the new *Prayer for the Jews* for the 1962 edition of the Roman Missal, some groups within the Jewish community have expressed disappointment that it is not in harmony with the official declarations and statements of the Holy See regarding the Jewish people and their faith which have marked the progress of friendly relations between the Jews and the Catholic Church over the last forty years

The Holy See wishes to reassure that the new formulation of the *Prayer*, which modifies certain expressions of the 1962 Missal, in no way intends to indicate a change in the Catholic Church's regard for the Jews which has evolved from the basis of the Second Vatican Council, particularly the Declaration *Nostra Aetate*. In fact, Pope Benedict XVI, in an audience with the Chief Rabbis of Israel on 15 September 2005, remarked that this document "has proven to be a milestone on the road towards the reconciliation of Christians with the Jewish people" The continuation of the position found in *Nostra Aetate* is clearly shown by the fact that the prayer contained in the 1970 Missal continues to be in full use, and is the ordinary form of the prayer of Catholics

In the context of other affirmations of the Council – on Sacred Scripture (*Dei Verbum*, 14) and on the Church (*Lumen Gentium*, 16) – *Nostra Aetate* presents the fundamental principles which have sustained and today continue to sustain the bonds of esteem, dialogue, love, solidarity and collaboration between Catholics and Jews It is precisely while examining the mystery of the Church that *Nostra Aetate* recalls the unique bond with which the people of the New Testament is spiritually linked with the stock of Abraham and rejects every attitude of contempt or discrimination against Jews, firmly repudiating any kind of anti-Semitism

The Holy See hopes that the explanations made in this statement will help to clarify any misunderstanding It reiterates the unwavering desire that the concrete progress made in mutual understanding and the growth in esteem between Jews and Christians will continue to develop ¹³

¹² SECRETARIAT OF STATE, Note concerning the change to the Good Friday prayer for the Jews, 4 February 2008, in *L'Osservatore Romano*, vol 148, no 31 (6 February 2008), p 1, English translation in *L'Osservatore Romano*, weekly English edition, 41 (13 February 2008), p 12 An English translation of the prayer, prepared by Rev Reginald Foster, OCD, is as follows "Let us also pray for the Jews That our God and Lord may illuminate their hearts, so that they may recognise Jesus Christ as Saviour of all people [] Almighty and eternal God, who desire that all people be saved and come to the recognition of the truth, propitiously grant that, as the fullness of all nations enters your Church, all Israel will be saved" (*The Tablet*, 9 February 2008, p 29) Ward provides a close textual analysis of the new prayer and identifies the biblical passages which served as sources (A WARD, "Sources of the New Good Friday Intercession for the Jews in the 1962 *Missale Romanum*," in *Ephemerides liturgicae*, 122 [2008], pp 250-255)

¹³ SECRETARIAT OF STATE, Communiqué following the publication of the new *Prayer for the Jews* for the 1962 edition of the Roman Missal, 4 April 2008, in *L'Osservatore Romano*, weekly English edition, 41 (9 April

Determining which prayer conforms more appropriately to the declaration of *Nostra aetate* is beyond the scope and subject matter of this study.¹⁴ Nevertheless, the provision to modify a prayer text of the 1962 *Missale Romanum* is juridically noteworthy for two reasons. Firstly, the prayer is an original composition. Although Benedict XVI could have easily elected to impose, with good reason, either the prayer contained in the revised *Missale Romanum* or the transitional text of 1965, he issued a new prayer to be used exclusively with the 1962 *Missale Romanum*. A *via media* was forged, whereby an arguably offensive text was removed from the 1962 *Missale Romanum* without replacing it with the comparable text of the revised *Missale Romanum*. An intermingling of rites was thus avoided. Secondly, by means of this minor modification, Benedict XVI has indicated his willingness to revise the 1962 *Missale Romanum*. Although this is a single prayer used by a relatively small minority of Catholics, its continued use would amount to an unprecedented level of needless controversy. The decision to replace the Good Friday intercession was not an arbitrary one simply to appease critics but one based on “the fundamental principles which have sustained and today continue to sustain the bonds of esteem, dialogue, love, solidarity and collaboration between Catholics and Jews,” found most notably in *Nostra aetate*. The Good Friday Prayer illustrates the Holy

2008), p. 8. On a recent visit to Rome’s main Synagogue, the Roman Pontiff strongly reaffirmed the Catholic Church’s commitment to improving Jewish/Catholic relations: “The teaching of the Second Vatican Council has represented for Catholics a clear landmark to which constant reference is made in our attitude and our relations with the Jewish people, marking a new and significant stage. The council gave a strong impetus to our irrevocable commitment to pursue the path of dialogue, fraternity and friendship, a journey that has been deepened and developed in the last 40 years through important steps and significant gestures” (BENEDICT XVI, Address on the occasion of his visit to Rome’s main synagogue, 17 January 2010, n. 2, in *Origins*, 39 [2009-2010], p. 539).

¹⁴ For helpful theological commentaries on the newly revised intercession, see G. RAVASI, “Oremus et pro Iudaeis’ of the Good Friday liturgy,” in *L’Osservatore Romano*, weekly English edition, 41 (12 March 2008), pp. 4-5; W. KASPER, “Striving for Mutual Respect in Modes of Prayer,” in *L’Osservatore Romano*, weekly English edition, 41 (16 April 2008), pp. 8-9; G. DE ROSA, “Oremus et pro Iudaeis,” in *La Civiltà Cattolica*, 159 (March 2008), pp. 490-491.

See's acknowledgement of the need to reform the 1962 *Missale Romanum*, particularly those aspects not in complete agreement with the teachings of the Second Vatican Council.

5.1.2 – Further Adaptations

Sacrosanctum concilium enunciated a number of general principles for the reform of the liturgy, such as norms drawn from the hierarchic and communal nature of the liturgy (*SC*, nn. 26-32), norms based on the teaching and pastoral character of the liturgy (*SC*, nn. 33-36), and norms for adapting the liturgy to the culture and traditions of peoples (*SC*, nn. 37-40). These guiding principles were identified and explored in chapter II (see 2.2 above). In light of *Summorum Pontificum*, one may reasonably ask whether these general norms need to be observed in the celebration of sacraments according to the *forma extraordinaria*. Would the observance of these conciliar principles compromise the integrity of the pre-conciliar rites through the imposition of characteristics belonging properly to the *forma ordinaria*?

Although the mind of the legislator regarding this matter is unknown, one can reasonably assume that he would be of the same mind as J. Ratzinger who, in earlier remarks, acknowledged that the essential criteria of *Sacrosanctum concilium* must be observed, even when celebrating Mass according to pre-conciliar liturgical rites:

The Council did not itself reform the liturgical books, but it ordered their revision, and to this end, it established certain fundamental rules. Before anything else, the Council gave a definition of what liturgy is, and this definition gives a valuable yardstick for every liturgical celebration. Were one to shun these essential rules and put to one side the *normae generales* which one finds in numbers 34-36 of the Constitution *De Sacra Liturgia* (SL),¹⁵ in that case one would indeed be guilty of disobedience to the Council! [...] This is why it is very important to observe the essential criteria of the Constitution on the Liturgy, which I quoted above, including when one celebrates according to the old Missal! The moment when this liturgy truly touches the faithful with its beauty and its richness, then it will be loved, then it will no longer be irreconcilably opposed to the new Liturgy, providing that these criteria are indeed applied as the Council wished.¹⁶

¹⁵ It is not entirely clear why Ratzinger identifies arts. 34-36 as *normes generales* since *Sacrosanctum concilium* reserves this designation to arts. 22-25. He may be speaking colloquially of the general norms (cf. *SC*, art. 21) established for the reform of the sacred liturgy (arts. 21-46), although, if this is the case, it still remains unclear why he only mentioned arts. 34-36.

¹⁶ J. RATZINGER, "Ten Years of the Motu Proprio *Ecclesia Dei*," in *Sacred Music*, vol. 125, n. 2 (1998), pp. 5-7.

Seemingly to acknowledge this principle, Benedict XVI identified two salutary effects of the post-conciliar liturgical reform which can be applied equally to the *forma extraordinaria*. Firstly, *Summorum Pontificum*, art. 6, permits the proclamation of the readings in the vernacular for Masses celebrated in the presence of the people. This provision is a direct application of art. 36 of *Sacrosanctum concilium* which permitted broader use of the vernacular “especially in the readings and the ‘common prayer,’ and also, as local conditions may warrant, in those parts which pertain to the people....” (*SC*, n. 54). Use of the vernacular, then, is not restricted to the *forma ordinaria* but, in accordance with the explicit disposition of the legislator, it may also be used for the proclamation of readings in Masses celebrated according to the Missal of John XXIII. Secondly, in his accompanying letter to bishops, Benedict XVI acknowledged that “the two forms of the usage of the Roman rite can be mutually enriching: New saints and some of the prefaces can and should be inserted into the old missal”¹⁷ This is not an exhaustive listing and one can foresee the possibility of additional emendations to the 1962 *Missale Romanum*, just as the so-called Missal of Paul VI has undergone several revisions since its initial promulgation in 1970. An instruction applying the principles of *Sacrosanctum concilium* to the 1962 *Missale Romanum* – much like the earlier instructions *Inter oecumenici* and *Tres abhinc annos* – would be extraordinarily beneficial, lest one conclude that the teachings of the Second Vatican Council, especially those concerning the liturgy, do not extend to the Roman rite in its entirety.¹⁸

¹⁷ BENEDICT XVI, Letter to bishops, p. 133

¹⁸ Hilberath is doubtful that this is even possible: “The relationship of *lex orandi* and *lex credendi* has to be seen in terms of their mutuality. The concrete liturgy expresses faith, but the reverse is also true. A renewed liturgy is an expression of a renewed faith, a faith renewing itself from the original sources. It follows, then, that a form of the liturgy which is not renewed cannot be an expression of a faith which is renewing itself. There has presumably been more than one expression of the faith so that from the outset we cannot abstractly refute that there exists a twofold expression of the one *lex credendi*. But in our case, the issue is to grasp the discrepancy in the theological foundation: the pre-conciliar rite is an expression of a different understanding of

5.2 – Observance of Abrogated Liturgical Laws

Summorum Pontificum's generous provision for the use of the 1962 *Missale Romanum* has presented a new problem concerning the observance of abrogated liturgical discipline. Significant liturgical changes have been implemented since the Second Vatican Council, initiated or accompanied by similar changes made to the law. Legitimate questions have been raised as to which law prevails when celebrating the *forma extraordinaria*, the former or the present *ius vigen*s. Although the answer may appear obvious, the resolution of this matter is a complex affair due in large part to the fact that some liturgical laws remain uncodified and are found in a variety of documents, including the liturgical books themselves (cf. *CIC/83*, c. 2). To illustrate this point, the chapter will proceed to examine the following disputed issues concerning the celebration of Mass according to the *forma extraordinaria*. (1) the use of female altar servers; (2) concelebration and communion under both species; (3) defects in the celebration of the Mass; and (4) the use of liturgical books which have been hitherto abrogated. This list is far from exhaustive but it will serve to illustrate the complexity of the issue at hand. Following an examination of these issues, a concluding section will aim to assist those engaged in the liturgical apostolate, determining what formally constitutes the *ius vigen*s and suggesting ways in which it may be correctly applied to various disputed matters raised in light of *Summorum Pontificum*.

5.2.1 – Female Altar Servers

The prohibition of the use of female altar servers was clearly stated in the 1917 Code (c. 813, §2). The Sacred Congregation for the Discipline of the Sacraments' instruction *Quam plurimum* warned that "all the authors teach unanimously that it is forbidden under pain of

church, eucharist, and office" (BJ HILBERATH, "The Latin Mass: Ecumenical Remarks on 'Summorum Pontificum'," in *Theology Digest*, 53 [2006], pp. 233-234).

mortal sin for women, even nuns to serve *at the altar*.”¹⁹ These prohibitions were disciplinary laws rather than the specific directives or rubrics guiding ministers in the celebration of the liturgy which concern the celebration of the Mass. No such prohibitions are contained in the 1983 Code of Canon Law, although the use of female altar servers remained a disputed point even after its promulgation.²⁰ Consequently, the Pontifical Council for the Interpretation of Legislative Texts issued an authentic interpretation in response to a proposed *dubium*, that is, whether serving at the altar is reckoned among the roles that lay people, both men and women, may exercise according to c. 230, §2. The Pontifical Council answered in the affirmative, “according to the instruction to be given by the Apostolic See.”²¹

This instruction, given in the form of a circular letter issued by the Congregation for Divine Worship and the Discipline of the Sacraments, served to further explain this change in liturgical discipline. The letter notes that while women are permitted to serve as altar servers, “it is the competence of each bishop, in his diocese, after hearing the opinion of the episcopal conference, to make a prudential judgement on what to do, with a view to the ordered development of liturgical life in his own diocese.”²² The letter also encourages the preservation of the “noble tradition” of having boys serve at the altar, a tone similarly adopted in the instruction *Redemptionis Sacramentum*, n. 47, which extols the practice by which

¹⁹ SACRED CONGREGATION FOR THE DISCIPLINE OF THE SACRAMENTS, Instruction on asking indulgences for: private oratories, portable altars, Mass without servers, and keeping the Blessed Sacrament in private chapels *Quam plurimum*, in *AAS*, 41 (1949), pp. 493-511, English translation in *CLD*, 3, p. 335.

²⁰ An examination of this issue before the authentic interpretation of c. 230, §2 is found in J.M. HUELS, *Disputed Questions in the Liturgy Today*, Chicago, Liturgy Training Publications, 1988, pp. 27-37.

²¹ PONTIFICAL COUNCIL FOR THE INTERPRETATION OF LEGISLATIVE TEXTS, reply, 11 July 1992, in *AAS*, 86 (1994), p. 541, English translation in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, 2nd ed. rev., Montreal, Wilson & Lafleur Limitée, 2004, p. 1621.

²² CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Circular letter on the use of female altar servers, 15 March 1994, in *Notitiae*, 30 (1994), pp. 333-335, English translation in *Origins*, 23 (1994), pp. 777-779.

boys provide service at the altar, while also acknowledging that females may be admitted to this ministry, at the discretion of the diocesan bishop.²³

Does this authentic interpretation also apply to celebrations of Mass according to the *forma extraordinaria*? Read argues that the use of female altar servers is “clearly contrary to the rubrics in force under the preconconciliar liturgical books.”²⁴ The 1983 Code “appears to grant the celebrant the right to make use of [female altar servers] at his discretion, but this would conflict with the discipline enacted by the *motu proprio* in the case of the extraordinary form.”²⁵ Read, nevertheless, acknowledges that this remains a disputed point and one that requires a clarification from the Holy See. Contrary to Read’s assertion, the rubrics of the 1962 *Missale Romanum* do not prohibit use of female altar servers; this restriction was contained in the 1917 Code and repeated in subsequent documentation of the Holy See. Since the 1917 Code has been explicitly abrogated (*CIC/83*, c. 6)²⁶ and an authentic interpretation has removed all doubt that females may be numbered among those who serve at the altar, there remains no legal justification to restrict the use of female altar servers *on the basis of abrogated liturgical discipline*.

Summorum Pontificum is clear that the two expressions of the Church’s worship – the *forma ordinaria* and the *forma extraordinaria* – constitute two usages of the one Roman rite (*SP*, art. 1). Although the rubrics for each respective form are to be faithfully observed, as these

²³ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be observed or avoided regarding the Eucharist *Redemptionis Sacramentum*, 25 March 2004, in *AAS*, 96 (2004), pp. 549-601, English translation in *Origins*, 33 (2004), pp. 801-822

²⁴ READ, “Some Questions and Issues,” p. 34.

²⁵ *Ibid.*, p. 35. For a contrary opinion, see C.J. GLENDINNING, “Use of Female Altar Servers in Liturgical Celebrations Using the Extraordinary Form,” in J. KOURY, S.M. VERBEEK (eds), *Roman Replies and CLSA Advisory Opinions 2008*, Washington, DC, Canon Law Society of America, 2008, pp. 77-79.

²⁶ Instructions, such as *Quam plurimum*, cease to have the force of law “not only by explicit or implicit revocation of the competent authority who issued them or of the superior of that authority but also by the cessation of the law for whose clarification or execution they were given” (*CIC/83*, c. 34, §3).

are constitutive to the rite itself, the same disciplinary laws – the *ius vigen*s – govern both forms. To insist otherwise would amount to the imposition of a distinct juridic order for the *forma extraordinaria*, that is, the resurrection of hitherto abrogated liturgical discipline to the exclusion of all legislative changes since 1962. *Summorum Pontificum* permits use of the earlier missal; it does not restore disciplinary laws which were in place when the missal was promulgated, in 1962

The decision to permit female altar servers remains that of the diocesan bishop, after hearing the opinion of the episcopal conference. Although they are not excluded *ipso iure*, the liturgical setting of the extraordinary form and the sensibilities of the faithful would be especially important to consider when deciding whether to permit the use of female altar servers when celebrating according to the extraordinary form of the Roman rite. Much like the *forma ordinaria*, the law permits but does not require use of female altar servers. To refrain from using female altar servers is well within the parameters of law and remains subject to the discretion and prudential judgement of the competent authority; the exclusion of female altar servers *on the basis of abrogated of liturgical discipline*, however, finds no convincing legal justification.

5.2.2 – Concelebration and Communion under Both Species

The concelebration of Mass, “which aptly expresses the unity of the priesthood” (*SC*, n. 57, §1; cf. *GIRM*, n. 199), was explicitly forbidden by the 1917 Code except for bishops and priests at the Mass of their ordination (*CIC/17*, c. 803). In such cases, the *Pontificale Romanum* provided the appropriate directives and adaptations. Similarly, communion was to be given to the faithful under the form of bread alone (*CIC/17*, c. 852), justified primarily on the dogmatic pronouncement of the Council of Trent that Christ is received “whole and

entire” under the one form of bread alone.²⁷ *Sacrosanctum concilium* derogated from both of these canons (*SC*, nn. 55, 57). The Council Fathers requested a new rite for concelebration to be drawn up and inserted into the *Pontificale Romanum* and *Missale Romanum* (*SC*, n. 58). A new rite of concelebration and of communion under both species was subsequently promulgated in 1965, to be used alongside the 1962 *Pontificale Romanum* and *Missale Romanum*.²⁸ It should be noted, then, that concelebration and communion under both species are not innovations, incompatible with the 1962 *Missale Romanum*, but practices that found a renewed expression at the Second Vatican Council and faithful implementation by the Sacred Congregation for Rites – even before the promulgation of the revised *Missale Romanum* of Paul VI.

The *ius vigens* has considerably amended the restrictions placed on these practices. Whereas concelebration used to be restricted to ordinations, the 1983 Code states that “unless the welfare of the Christian faithful requires or suggests otherwise, priests can concelebrate the Eucharist” (*CIC/83*, c. 902). The law itself permits concelebration and no additional concessions are required from the ordinary.²⁹ Similarly, restrictions on the reception of communion under the form of wine have been abrogated: “Holy communion is to be given under the form of bread alone, or under both species according to the norm of the liturgical laws, or even under the form of wine alone in a case of necessity” (*CIC/83*, c.

²⁷ COUNCIL OF TRENT, Session XXI, Teaching on communion under both kinds and of children, 16 July 1562, English translation in N. TANNER (ed.), *Decrees of the Ecumenical Councils*, vol. 2, Washington, DC, Georgetown University Press, 1990, pp. 726-728.

²⁸ *Ritus servandus in concelebratione Missae et ritus communionis sub utraque specie*, 7 March 1965, Typis Polyglottis Vaticanis, 1965. For an English translation and commentary, see P. JOUNEL, *The Rite of Concelebration of Mass and Communion under Both Species*, New York, Desclée, 1967.

²⁹ Concelebration is recommended at: (a) the Evening Mass of the Lord’s Supper; (b) the Mass during councils, meetings of bishops, and synods; (c) the conventual Mass and the principal Mass in churches and oratories, (d) Masses at any kind of meeting of priests, either secular or religious (*GIRM*, n. 199).

925). In this case, the liturgical law referred to in c. 925 is that of the *General Instruction of the Roman Missal*, n. 283, which states.

The diocesan bishop may establish norms for Communion under both kinds for his own diocese, which are also to be observed in churches of religious and at celebrations with small groups. The diocesan bishop is also given the faculty to permit Communion under both kinds whenever it may be appropriate to the priest to whom, as its own shepherd, a community has been entrusted, provided that the faithful have been well instructed and there is no danger of profanation of the Sacrament or of the rite's becoming difficult because of the large number of participants or some other reason.³⁰

In the case of both concelebration and communion under both species, the law permits but does not require the exercise of these faculties. As such, the frequency of concelebration and the availability of communion under both species vary considerably throughout the Latin Church.

Although the 1962 *Missale Romanum* makes no provision for concelebration and communion under both species, and *Summorum Pontificum* does not require the observance of the emendations introduced in 1965 and 1967, like some earlier provisions, one may ask whether these practices are permitted in accordance with the *motu proprio*. It would appear so since these are permitted by the 1983 Code of Canon Law. If the universal law makes a provision for the distribution of communion under both species and concelebration, as it does in the 1983 Code and the *GIRM*, it is imperative that such a rite exist,³¹ along with

³⁰ Some may object that later norms, contained in a document intended to preface the 2002 *Missale Romanum*, are not applicable to the celebration of the *forma extraordinaria*. While it is true that the *GIRM* contains a number of norms which provide for the correct celebration of the revised *Ordo Missae*, in much the same way that the *Ritus servandus* prefaces the 1962 *Missale Romanum*, the *GIRM* also contains a number of provisions which affect liturgical discipline in general. In as much as the *GIRM* provides for circumstances which can be easily extracted from the particularities of the *forma ordinaria* – those which do not pertain exclusively to the celebration of revised *Ordo Missae*, such as the importance and dignity of the Eucharistic Celebration (nn 16-26), the arrangement and furnishings of Churches (nn 288-318) and the requisites for the celebration of Mass (nn 319-349) – the *GIRM* remains an indispensable source of disciplinary laws for both forms of the Roman rite, particularly in the absence of comparable provisions in the 1983 Code. The Holy See alone is competent to ensure that the prefacing texts of the *Missale Romanum* are brought into conformity with the *ius vigens*.

³¹ Until the contrary is indicated, the liturgical rites to be observed are contained in the *Ritus servandus in concelebratione Missae et ritus communionis sub utraque specie*, 7 March 1965, Typis Polyglottis Vaticanis, 1965. As Huels observes, “[t]he discipline regulating concelebration and Communion under both kinds to be observed is not that of this 1965 book but that found in the current law” (HUELS, “Reconciling the Old with the New,” p 106).

accompanying liturgical laws to which c. 925 defers. Otherwise, the universal law must be amended so as to clarify that concelebration and communion under both species are peculiarities of the *forma ordinaria* – a claim with no historical basis – and are juridically prohibited from all celebrations of Mass according to the *forma extraordinaria*. While this may occur in the future, the present *ius vigens* does not appear to exclude the possibility of concelebration and the distribution of communion under both species at Masses celebrated according to the 1962 *Missale Romanum*, provided that the appropriate rite is used. Similarly, the prohibition of these practices finds no justification *on the basis of abrogated liturgical discipline*.

5.2.3 – Defects in Celebrating Mass

A document prefacing the 1962 *Missale Romanum*, entitled *De defectibus in celebratione Missae occurrentibus*, lists a wide variety of defects that may occur during the celebration of Mass. A defect may occur with regard to the matter to be consecrated, with regard to the form to be observed and with regard to the consecrating minister. As the document correctly notes, there is no sacrament if any of these elements are missing, that is, the proper matter, the form, including the intention, and priestly ordination of the celebrant.³² Incidentally, many of the matters addressed in *De defectibus in celebratione Missae*, worded negatively as “defects”, especially defects occurring in the celebration of the rite itself (*De defectibus in ministerio ipso occurrentibus*), are addressed positively in chapter VI of the *General Instruction of the Roman Missal* as requisites for the celebration of Mass (*de us quae ad Missae celebrationem requiruntur*).

There are a number of defects contained in this document that are at odds with the current law. While it is to be expected that both forms of the Roman rite will exhibit certain particularities, a revision of this document – much like the one which occurred in 1965 –

³² *De defectibus in celebratione Missae occurrentibus* (1962), I

appears to be in order. The reason for this is not to impose upon the *forma extraordinaria* characteristics proper to the *forma ordinaria*, but to ensure that the same rights and obligations are shared by all the Christian faithful of the Latin Church *sui iuris*.

For instance, *De defectibus in celebratione Missae* contains the following two restrictions in section IX on defects of the disposition of the body:

1. If a priest before Mass has not been fasting from solid food and alcoholic drink for at least three hours, and at least one hour from non-alcoholic drink, he may not celebrate. The drinking of water, however, does not break the fast.
2. The sick, even though they are not bed-ridden, may take non-alcoholic liquids as well as true and proper medicine, whether liquid or solid, before the celebration of Mass, without any time limit³³

These provisions are noticeably different from the comparable norms of the 1917 Code (cc. 808, 858) and even earlier versions of *De defectibus in celebratione Missae*. When the 1962 *editio typica* was promulgated, the document was revised so as to reflect the law then in force, that is, Pius XII's 1957 *motu proprio Sacram Communionem*, which had already derogated from the necessary norms of the 1917 Code.³⁴

The legislation concerning the Eucharistic fast has been significantly revised since 1962 and the current requirements are included in the 1983 Code:

- Can. 919, §1. A person who is to receive the Most Holy Eucharist is to abstain for at least one hour before holy communion from any food and drink, except for only water and medicine
- §2. A priest who celebrates the Most Holy Eucharist two or three times on the same day can take something before the second or third celebration even if there is less than one hour between them
- §3. The elderly, the infirm, and those who care for them can receive the Most Holy Eucharist even if they have eaten something within the preceding hour.

Since the law concerning the Eucharistic fast has been altered, the *De defectibus in celebratione Missae* of the 1962 *Missale Romanum* requires alteration in light of these changes, in much the

³³ "1. Si sacerdos ante Missam non sit ieiunus per tres saltem horas quod cibum solidum et potum alcoholicum, et per unam saltem horam quoad potum non alcoholicum, non potest celebrare. Aquae tamen sumptione ieiunium non frangitur
 "2. Infirmi, quamvis non decumbent, potum non alcoholicum, et versa ac proprias medicinas, sive liquidas sive solidas, ante Missae celebrationem sine temporis limite sumere possunt."

³⁴ See PIUS XII, Apostolic letter *motu proprio* extending the provisions for evening Mass and the Eucharistic fast *Sacram Communionem*, 19 March 1957, in *AAS*, 49 (1957), pp. 177-178, English translation in SEASOLTZ, *The New Liturgy*, pp. 249-250. For an overview of these provisions, see 1.4.1.2 above.

same way that it was revised to reflect changes made in 1957. As Huels notes, “[i]f the faithful voluntarily choose to observe the former, more rigorous discipline, they may do so, but it cannot be required.”³⁵ In fact, to require this would amount to an unjust imposition, contrary to both the letter and spirit of the law.³⁶ The faithful, therefore, should not be burdened with additional obligations or restrictions under the false pretense that the observance of such is required for celebrations of Mass according to the *forma extraordinaria*.³⁷

De defectibus in celebratione Missae, X, also includes a number of defects which may occur in the celebration of the rite itself. These defects, which pertain exclusively to liceity, occur under a variety of circumstances, such as when: (1) Mass is celebrated in a space not sacred or lawfully approved, or on an altar that is not consecrated, or not covered with three cloths; (2) wax candles are not used; (3) Mass is not celebrated at the proper time; (4) proper vestments are not worn by the priest or duly blessed by a bishop; (5) no server is present to assist at Mass; (6) the chalice and the paten are made from improper material; (7) the corporal is not clean or is decorated with silk or gold; (8) the priest celebrates Mass with his head covered; or (9) no missal is present, even though the priest may know the Mass by heart. Huels examines each of these defects and concludes that “in nearly every instance the current law is less restrictive than the prior.”³⁸ Although communities may wish to observe

³⁵ HUELS, “Reconciling the Old with the New,” p. 105

³⁶ The third principle for the revision of the Code of Canon Law, for instance, states that “the good of the universal Church evidently demands that the norms of any future Code should not be too rigid” (*Communicationes*, 1 [1969], p. 80, English translation in J. HITE, D.J. WARD, *Readings, Cases, Materials in Canon Law: A Textbook for Ministerial Students*, Collegeville, MN, Liturgical Press, 1990, p. 87). Similarly, RJ 15 in VI^o states “Burdens are to be restricted and favours are to be amplified” (*Odia restringi, et favores convenit ampliare*).

³⁷ For example, the requirement that women wear head coverings in church (*CIC/17*, c. 1262, §1) has been abrogated in virtue of the promulgation of the 1983 Code (*CIC/83*, c. 6, §1, 1^o). While women may continue to wearing a head covering, commonly in the form of a so-called chapel veil or mantilla, the canonical requirement to do so no longer exists – even when assisting at Mass celebrated with the 1962 *Missale Romanum*.

³⁸ HUELS, “Reconciling the Old with the New,” p. 108.

the former discipline, and may do so with good intentions, it must be acknowledged that the present law no longer requires this – at least for the *forma ordinaria*.

Evidently, an incongruity exists, whereby some liturgical laws prefacing the 1962 *Missale Romanum* are contrary to those prefacing the revised *Missale Romanum*. In some cases, such as with the continued use of three altar cloths and the maniple, observance of the former law presents no serious obstacle. In other cases, however, insistence upon the former law would result in the imposition of a more rigorous requirement for a certain segment of the Christian faithful and, most especially, for the priest celebrant.³⁹ These incongruities are preventable. The Congregation for Divine Worship and the Discipline of the Sacraments together with the Pontifical Council *Ecclesia Dei* ought to revise the disciplinary laws prefacing the pre-conciliar liturgical books so as to ensure consistency and conformity with the present law. What constitutes a “defect,” for instance, ought to be clarified rather than left to the discretion or scrupulousness of individuals, especially in light of the fact that both forms of the Roman rite may now be celebrated in the same parish, at the same altar, and by the same priest.

5.2.4 – Use of Other Liturgical Books

Summorum Pontificum permits the use of earlier liturgical forms and, in so doing, specifies that the 1962 *editio typica* of the *Missale Romanum* may be used for the celebration of Mass (*SP*, art. 1) and that an “earlier ritual” may be used for the administration of the sacraments of baptism, marriage, penance, and the anointing of the sick (*SP*, art. 9, §1). Similarly, the “earlier Roman Pontifical” may be used by ordinaries for the celebration of

³⁹ For instance, may a priest, desirous of satisfying the request of a stable group of parishioners attached to earlier liturgical forms but in possession of no maniple or without the appropriate number of candles, celebrate according to the *forma extraordinaria* without committing a “defect”? Although this may seem scrupulous to some, the faithful observance of rubrics has come to characterize celebrations of the *forma extraordinaria* and remain of paramount importance to many of those attached to earlier liturgical forms

confirmation (*SP*, art. 9, §2). Regrettably, the *motu proprio* does not specify which *editiones typicae* of the ritual and the pontifical may be lawfully used.

An additional difficulty arises when such sacraments are administered by or in the presence of a bishop or other higher-ranking prelate. Additional rubrics for these celebrations are found primarily in the *Caeremoniale Episcoporum*. Although not a liturgical book in the strict sense, inasmuch as it is not used during liturgical celebrations, the *Caeremoniale Episcoporum* describes the rites carried out by a bishop in the course of his apostolic ministry. It remains, then, an indispensable source of liturgical law found outside the Code of Canon Law (cf. *CIC/83*, c. 2). When the *Caeremoniale Episcoporum* was revised and promulgated after the Second Vatican Council, the earlier edition was simultaneously abrogated:

The Congregation for Divine Worship prepared this new *Ceremonial of Bishops* and Pope John Paul II, at an audience of 7 September 1984 granted to the undersigned Pro-Prefect and the Secretary of the Congregation, by his authority approved and ordered its publication. By mandate of Pope John Paul II this Congregation for Divine Worship therefore publishes the new *Ceremonial of Bishops* and decrees that it supersedes the previous *Caeremoniale Episcoporum* as soon as it is used. All things to the contrary notwithstanding.⁴⁰

Even without an express revocation of the former edition, one can reasonably conclude that this has occurred in virtue of either an integral reordering of the entire subject matter or in virtue of an implicit revocation as indicated by the standard formula “*contrariis quibuslibet non obstantibus*” (cf. *CIC/83*, c. 20).

Recourse to an expressly abrogated document, such as the pre-conciliar *Caeremoniale Episcoporum*, is unprecedented, yet pastoral circumstances and the motivation of *Summorum Pontificum* seem to suggest that this is possible and, indeed, recommended. Without use of the earlier *Caeremoniale Episcoporum*, the proper celebration of a solemn pontifical Mass or

⁴⁰ CONGREGATION FOR DIVINE WORSHIP, Decree promulgating the *Caeremoniale Episcoporum*, 14 September 1984, in *Notitiae*, 20 (1984), pp. 940-941, English translation in *Ceremonial of Bishops*, Collegeville, MN, Liturgical Press, 1989, p. 9.

pontifical vesperis, for instance, is seemingly impossible. Since these celebrations routinely occur – even celebrated in Rome by high-ranking officials of the Roman Curia – it is curious that *Summorum Pontificum* neglected to provide for such circumstances by failing to clarify the juridic status of the pre-conciliar *Caeremoniale Episcoporum*. Until a definitive clarification is offered, one must presume that the rubrics of the pre-conciliar *Caeremoniale Episcoporum* are to be used for celebrations at which bishops and other high-ranking prelates preside, in much the same way as the *Rubricae generales*, *Ritus servandus in celebratione Missae*, and *De defectibus in celebratione Missae occurrentibus* – all of which were also expressly abrogated – are necessarily used in Masses celebrated according to the *forma extraordinaria*.⁴¹

The use of the *Pontificale Romanum* presents a similar difficulty. *Summorum Pontificum* gives ordinaries the right to celebrate the sacrament of confirmation using the earlier *Pontificale Romanum* (SP, art. 9, §2). Can the *Pontificale Romanum* be used for liturgical rites other than the sacrament of confirmation? As argued above, since *Summorum Pontificum* has refrained from granting this faculty for the sacrament of holy orders, those wishing to make use of it for such celebrations must request the permission of the Holy See (see 4.14 above). Since 1988, the Holy See has been disposed to permit use of the earlier *Pontificale Romanum* for the administration of holy orders when requested. What is less clear is the use of the *Pontificale Romanum* for those sacraments permitted by *Summorum Pontificum* – baptism, marriage, penance, and anointing of the sick – but presided over by a bishop. Special pontifical rites for the celebration of the baptism of children, the baptism of adults, and for

⁴¹ It must be recalled, however, that the vesture of prelates has been simplified by Paul VI. These provisions should be observed for celebrations of both forms of the Roman rite. See SECRETARIAT OF STATE, Instruction on the dress, titles, and insignia of prelates *Ut sine sollicitate*, 31 March 1969, in *AAS*, 61 (1969), pp 334-340, English translation in *DOL*, n. 551, pp 1396-1400. A helpful summary is found in revised *Caeremoniale Episcoporum*, pp 331-333.

the sacrament of marriage are contained in the *Pontificale Romanum*.⁴² Although not foreseen by *Summorum Pontificum*, it would seem that when these sacraments are celebrated by a bishop, these pontifical rites may be appropriately and licitly used in place of those contained in the *Rituale Romanum*.

Indiscriminate and arbitrary use of the earlier *Pontificale Romanum*, however, should be avoided. For instance, the earlier norms for use of the pallium are contained in the *Pontificale Romanum*. The occasions on which patriarchs and archbishops could wear the pallium were restricted to a number of prescribed liturgical celebrations.⁴³ The pallium “signifies the power which the metropolitan, in communion with the Roman Church, has by law in his province” (*CIC/83*, c. 437, §1). It can be worn in any church of the ecclesiastical province over which the metropolitan presides, but not outside it, even if the diocesan bishop consents. The 1983 Code does not specify on which days the pallium may be worn, much like the 1917 Code, but simply defers to the appropriate liturgical law (*CIC/83*, c. 437, §2).

This is found in the revised *Caeremoniale Episcoporum*:

A residential archbishop who has already received the *pallium* from the pope wears it outside the chasuble in the territory of his jurisdiction when he celebrates a stational Mass or another Mass celebrated with great solemnity; he wears it also for ordinations, the blessing of an abbot or abess, the consecration to a life of virginity, and the dedication of a church or altar (n. 62).⁴⁴

⁴² The *Pontificalis Ritus pro Baptismo parvulorum*, *Pontificalis Ritus pro Baptismo adultorum*, and the *Ritus Pontificalis pro celebrando Sacramento Matrimonii*, can be found in WARD, *Pontificale Romanum*, pp. 283-287, 288-302, 360-363, respectively.

⁴³ These days included Christmas; St. Stephen, proto-martyr; St. John, apostle and evangelist; Circumcision of the Lord; Epiphany of the Lord; Palm Sunday; Holy Thursday; Good Friday; Easter; White Sunday (first Sunday after Easter); the Ascension of the Lord; Pentecost Sunday; Corpus Christi; the five feast of the Blessed Virgin Mary: Purification, Annunciation, Assumption, Nativity, and Immaculate Conception; Birth of John the Baptist; Feast of St. Joseph (19 March), All Saints; Feasts of all the Apostles, Dedication of churches; principal feasts of the local church, ordination of clerics, consecration of bishops, abbots, and virgins; the anniversary of dedication of his church and consecration. See WARD, *Pontificale Romanum*, pp. 72-73.

⁴⁴ A stational Mass is defined by the revised *Caeremoniale Episcoporum* as follows: “The preeminent manifestation of the local Church is present when the bishop, as high priest of his flock, celebrates the eucharist and particularly when he celebrates in the cathedral, surrounded by his college of presbyters and by his ministers, and with the full, active participation of all God’s holy people. This Mass, which is called the stational Mass, shows forth the unity of the local Church as well as the diversity of ministries exercised around the bishop and the holy eucharist” (n. 119).

Clearly, the present law is less rigorous than the former, since the days on which the pallium is to be worn are not strictly defined; the circumstances of the celebration and the discretion of the metropolitan will determine the appropriate use of the pallium. The use of the pallium for both forms of the Roman rite is determined by the norms contained in the revised *Caeremoniale Episcoporum* rather than those of the earlier *Pontificale Romanum*, based on the following three observations: (1) *Summorum Pontificum* has not permitted an indiscriminate use of the earlier *Pontificale Romanum* but only for the sacrament of confirmation; (2) the oft-repeated maxim “burdens are to be restricted and favours are to be amplified” suggests that the more favourable law should prevail in this circumstance, that is, the pallium may be used on occasions not explicitly foreseen in the former law for celebrations of the *forma extraordinaria*,⁴⁵ and (3) a later law abrogates or derogates from an earlier law if it completely reorders the entire subject matter. Since this has occurred, recourse to the norms of the earlier *Pontificale Romanum* is without a sufficient juridical basis. Of course, if one were to observe the former law, that is, refrain from wearing the pallium except for those occasions expressly identified in the earlier *Pontificale Romanum*, one may do so. This however may occur not because the earlier law maintains the force of law, but in virtue of the optional character of the current discipline.

5.2.5 – Summary

Now that the 1962 *Missale Romanum* constitutes the *forma extraordinaria* of the Roman rite, determining which laws apply can be a daunting endeavor, as the preceding reflections demonstrate.⁴⁶ Permission to use earlier liturgical books necessitates the observance of the

⁴⁵ RJ 15 in *VP* states “Burdens are to be restricted and favours are to be amplified” (*Odia restringi, et favores convenit ampliare*)

rubrics contained therein. Similarly, the prefacing documents – *Rubricae generales*, the *Ritus servandus in celebratione Missae*, and the *De defectibus in celebratione Missae occurrentibus* – provide further specification as to how the rites are to be celebrated, in much the same way as the revised missal could not be used properly without the accompanying *Institutio Generalis Missalis Romani*. These prefacing documents, however, do not take into account the liturgical laws presently in force or even the principles upon which the current discipline is based. These consequent discrepancies arouse suspicion and can result in conflicts within dioceses and parishes. The following is offered to support pastors and all those engaged in the liturgical apostolate in the resolution of difficulties that result when discrepancies are identified between the current law and the norms contained in the *praenotanda* of the liturgical books used by the *forma extraordinaria*.

The *ius liturgicum* can be found in a variety of sources, including the Code of Canon Law, juridic texts issued by the Holy See, and, most especially, the liturgical books themselves. Liturgical laws are found in liturgical books in two principal forms: (1) the *rubrics*, namely, the specific directives guiding ministers in the celebration of the liturgy which are generally printed in red to distinguish them from the readings and prayers; and (2) the *praenotanda*, which generally comprise the introduction of a liturgical rite or chapter and consist of various norms to be observed in the celebration of the liturgy.⁴⁷ The *Missale Romanum*, for both the *forma ordinaria* and *forma extraordinaria*, is somewhat unique inasmuch as the *praenotanda* consist of prefacing documents known as the *Institutio generalis Missalis Romani* for the revised Missal of Paul VI and the *Rubricae generales*, *Ritus servandus in celebratione*

⁴⁶ As Ludecke observes, the juridic complexity of having two parallel forms of the Roman rite is not something the Holy See has recognizably considered in its consequences (LUDECKE, “Kanonistische Anmerkungen zum Motu Proprio *Summorum Pontificum*,” p 34)

⁴⁷ HUELS, *Liturgy and Law*, pp 84-85

Missae, and *De Defectibus in celebratione Missae occurrentibus* for the 1962 *Missale Romanum*. For the most part, the *praenotanda* are either exhortative, encouraging a certain practice or disposition, or provide additional rubrical directives to assist in the proper celebration of the rite. In some cases, however, the *praenotanda* are interspersed with disciplinary norms, some of which have been abrogated by later legislation.⁴⁸ A later law abrogates, or derogates from, an earlier law if it (1) states so expressly; (2) is directly contrary to it; or (3) completely reorders the entire subject matter of the earlier law (*CIC/83*, c. 20).⁴⁹ When this occurs, the *praenotanda* ought to be revised so as to ensure conformity with the current disciplinary laws.

Whereas rubrics generally determine *how* the liturgical rites are to be celebrated, disciplinary liturgical laws determine *who*, under *what* conditions, *where* and *when* these same rites may be celebrated. While the rubrics of each respective missal are to be observed, the current disciplinary laws, found in a variety of sources – the 1983 Code of Canon Law, juridic documents of the Holy See, the *praenotanda* of the liturgical books – “must be the basis for determining the outcome of any disputed question or practice related to liturgical and sacramental discipline.”⁵⁰ If the 1917 Code has been abrogated, all the laws which conformed to it, such as the disciplinary *praenotanda* of liturgical books promulgated before the Second Vatican Council, must also be revised in light of recent legislative changes. This

⁴⁸ Two examples from the earlier *Rituale Romanum* will clearly illustrate this point: (1) the earlier *Rituale Romanum*, in conformity with the 1917 Code (*CIC/17*, c. 1109, §3), prescribed that mixed marriages were to take place outside a church unless dispensed by the ordinary (*Rituale Romanum*, VIII, 1, 20). This restriction has been abrogated, and mixed marriages are to take place in a parish church (*CIC/83*, c. 1118, §1); (2) the former law (*Rituale Romanum*, VI, 1, 8; *CIC/17*, c. 940, §2) specified that the sacrament of anointing of the sick could be repeated only in the case of a new illness or relapse occurring after a cure or recovery from the original danger. This is no longer the case. The apostolic constitution *Sacram Unctionem infirmorum* confirms that the sacrament may be administered when a sick person recovers after being anointed and then again falls ill or if during the same illness the person’s condition becomes more serious. One need no longer recover or contract a new illness before qualifying anew for the reception of the sacrament.

⁴⁹ For a helpful overview of the concept of integral reordering in canon law, see P. SMITH, *Theoretical and Practical Understanding of the Integral Reordering in Canon Law*, Roman Catholic Studies, v. 16, Lewiston, NY/Queenston, ON, Edwin Mellen Press, 2002.

⁵⁰ HUELS, “Reconciling the Old with the New,” pp. 105-106.

has implications for both the *forma ordinaria* and *forma extraordinaria*. When the 1983 Code of Canon law was promulgated, for instance, about seventy-six laws contained in the *praenotanda* of various liturgical books required emendation.⁵¹ Just as the post-conciliar rites required amendment in light of the 1983 Code, a comparable revision of the *praenotanda* of the liturgical books of the *forma extraordinaria* is likewise required so as to ensure that the same rights and obligations are afforded to all the Christian faithful, irrespective of the form of Mass they celebrate.

There are those who object to this conclusion, arguing that it compromises the integrity of the *usus antiquior* through the imposition of undesirable liturgical and disciplinary innovations. The conclusion reached above is not based on a desire to compromise the integrity of the *forma extraordinaria*, but on the acknowledgment of the fact that the *forma extraordinaria* does not exist in a “legal vacuum” and remains subject to the general norm of law.⁵² *Summorum Pontificum* permits the 1962 Missal; it does not return the Church, or a certain portion thereof, to 1962 nor does it provide any justification for the complete or partial abandonment of current sacramental and liturgical discipline.

Summorum Pontificum has explicitly abrogated only two laws: the circular letter *Quattuor abhinc annos* of 1984 and the *motu proprio Ecclesia Dei* of 1988.⁵³ In place of these, *Summorum Pontificum* has provided new regulations for use of the 1962 *Missale Romanum* and other pre-conciliar liturgical books. There is no indication in the *motu proprio* itself or in the

⁵¹ See SACRED CONGREGATION FOR SACRAMENTS AND DIVINE WORSHIP, *Variationes in novas editiones librorum liturgicorum ad normam Codicis Iuris Canonici nuper promulgate introducendae*, 12 September 1983, in *Notitiae*, 19 (1983), pp. 540-555, English translation in *Emendations in the Liturgical Books following upon the New Code of Canon Law*, Washington, DC, International Commission on English in the Liturgy, 1984.

⁵² REID, *The Ceremonies of the Roman Rite Described*, p. 19.

⁵³ Chapter II also argued that *Summorum Pontificum* implicitly derogated from *Sacram unktionem infirmorum* and *Dvinae consortium naturae*, both apostolic constitutions of Paul VI, so as to permit use of the earlier sacramental forms for the sacraments of the anointing of the sick and confirmation. See 27 and 28 above.

accompanying letter to bishops of the legislator's intention to derogate, either completely or partially, from post-conciliar disciplinary laws for the celebration of the *forma extraordinaria*. G. Read argues that Benedict XVI intended to derogate from at least some legislative developments, such as permitting use of female altar servers for the *forma extraordinaria*, since these "would alienate those for whom the celebration was intended."⁵⁴ It is one thing to suggest that the use of female altar servers is ill-advised or pastorally imprudent for celebrations of the *forma extraordinaria*; it is quite another to suggest that their use is illicit.

The difficulty with Read's argument is threefold: Firstly, it subjects the law to one's preference, whereby individuals or communities are free to observe disciplinary laws that they find amenable to their ecclesiological and liturgical preferences under a false pretense that such is required in fidelity to earlier liturgical forms. Secondly, the legislator has not expressly indicated his intention to derogate from post-conciliar legislative developments, apart from the two documents identified above. One should not presume a derogation from a matter not expressly identified in the *motu proprio*, such as the authentic interpretation of c. 230, §2, on account of pastoral sensitivity or on the basis of an argument that the *forma extraordinaria* cannot admit of legislative developments after 1962 (cf. *CIC/83*, c. 21). The change made explicitly to the Good Friday prayer for the Jews is proof that such can easily occur. Thirdly, the criterion by which one is able to determine which law applies – the present or former discipline – is a rather subjective determination. This is evident in Read's own argument. For instance, he maintains that the earlier discipline prevails over the 1983 Code, in virtue of *Summorum Pontificum* and c. 20, for matters pertaining to female altar servers, communion in the hand, and use of extraordinary ministers of holy communion. The disciplinary laws to be observed for matters pertaining to the Eucharistic fast,

⁵⁴ READ, "Some Questions and Issues," p. 35. For a similar argument, see REID, *The Ceremonies of the Roman Rite Described*, p. 19.

conversely, are those contained in the 1983 Code⁵⁵ All of these disciplinary matters pertain to the liturgy yet, on the basis of indiscernible criteria, a different conclusion is reached. To avoid such juridic uncertainty or reducing the law to a question of mere preference, the present disciplinary liturgical laws must always prevail when discrepancies are identified. Faithful observance of the current disciplinary liturgical laws, then, ensures: (1) *uniformity* with the Roman rite and 1983 Code; (2) *conformity* with the Second Vatican Council and current ecclesiastical discipline; and (3) *magnanimity* in that the new provisions are generally less stringent than the former.

This approach also ensures that most of the controversial or objectionable liturgical changes will not be imposed upon the *forma extraordinaria*, such as female altar servers, concelebration, and communion under both species. Just as the current discipline does not exclude the possibility of these practices – even for the *forma extraordinaria*, as argued above – it equally does not mandate the observance of such. In full obedience to the present discipline, those celebrating the *forma extraordinaria* are free to refrain from concelebration and the use of female altar servers, just as they can distribute holy communion under the form of bread alone. This however is possible in virtue of the options permitted by the current discipline, not the observance of the former law.⁵⁶ Of course, where earlier disciplinary laws cannot be reconciled with the present, the latter shall always prevail and the liturgical books of the *forma extraordinaria* should be revised to reflect these legislative changes.

⁵⁵ Ibid

⁵⁶ In fact, if the Holy See were to subsequently clarify that certain former practices are to be observed in celebrations of *the forma extraordinaria*, such as the prohibition on female altar servers or concelebration, the juridic basis for doing so is not the observance of former abrogated laws but fidelity to the present liturgical disciplinary norms, that is, the proposed clarification offered by the Holy See, likely in the form of a general decree (*CIC/83*, c 29), general executory decree (*CIC/83*, c 31) or an instruction (*CIC/83*, c 34)

5.3 – Moderator of Liturgical Life

In the Churches entrusted to their care, bishops are “the principal dispensers of the mysteries of God, and the directors, promoters, and guardians of the entire liturgical life” (CIC/83, c. 835, §1). The use of the 1962 *Missale Romanum* has consistently presented difficulties in this regard. Prior to *Summorum Pontificum*, the Pontifical Commission *Ecclesia Dei* possessed a faculty to permit priests the use of the 1962 *Missale Romanum* after having forewarned their diocesan bishop; no consultation *per se* was required.⁵⁷ As noted above in chapter III (see 3.3.4.1), *Ecclesia Dei* was initially inclined to grant a *celebret* at the request of a priest and simply to notify the diocesan bishop of this concession.⁵⁸ Arguably, the diocesan bishop, as a director, promoter, and guardian of the entire liturgical life of his diocese, is in a better position to appropriately assess the circumstances under which the requests for use of the 1962 *Missale Romanum* are being made, along with the suitability of the priest ready to undertake such celebrations. Woestman provides an apt description of the diocesan bishop’s role prior to *Summorum Pontificum*:

When a bishop is petitioned to authorize celebration according to the 1962 missal, he is called upon to make a judgement and a decision based on that judgement. This is evident since the granting of a permission is a discretionary act of authority. He is not a permission automaton, but the shepherd of his diocese⁵⁹

Summorum Pontificum, however, has entirely eliminated the need to obtain additional faculties to celebrate Mass according to the 1962 *Missale Romanum* and, in so doing, has significantly altered the bishop’s role in this matter.

⁵⁷ PONTIFICAL COMMISSION ECCLESIA DEI, *Rescriptum ex audientia Sanctissimae* concerning faculties entrusted to the Pontifical Commission, 18 October 1988, n. 1, in *AAS*, 82 (1990), p. 533, English translation in *CLSGBI Newsletter*, 77 (1989), p. 19.

⁵⁸ See, for example, W.A. SCHUMACHER and L. JARRELL (eds.), *Roman Rites and Advisory Opinions 1990*, Washington, DC, Canon Law Society of America, 1990, pp. 1-5

⁵⁹ W.H. WOESTMAN, “*Ecclesia Dei* and Ecclesial Communion,” in *The Jurist*, 53 (1993), p. 208.

Benedict XVI insisted that these new provisions in no way lessen the authority and responsibility of a diocesan bishop in his own diocese:

Each bishop, in fact is the moderator of the liturgy in his own diocese (cf. *SC*, n. 22). Nothing is taken away, then, from the authority of the bishop, whose role remains that of being watchful that all is done in peace and serenity. Should some problems arise which the parish priest cannot resolve, the local ordinary will always be able to intervene in full harmony, however, with all that has been laid down by the new norms of the *motu proprio* ⁶⁰

This is a rather curious statement inasmuch as the diocesan bishop's responsibility has been significantly altered by these new provisions. Whereas the faculty to celebrate Mass according to the 1962 *Missale Romanum* could previously be withheld by the diocesan bishop for a wide variety of reasons – unsuitability of the priest, lack of appropriate formation, heterodoxy of those making the request, personal opposition to former liturgical rites, etc. – this is no longer the case. The bishop's new role is largely to ensure that the welfare of those attached to earlier liturgical forms is successfully harmonized with the ordinary pastoral care of the parish. The diocesan bishop must sincerely attempt to satisfy these petitions and, when necessary, he may even call upon the Pontifical Commission *Ecclesia Dei* to obtain counsel and assistance.

In virtue of their ordination, presbyters receive the power of order to validly confect the sacrament of the Eucharist (*CIC/83*, c. 900, §1) according to the duly approved liturgical books of Church (*CIC/83*, c. 838, §2).⁶¹ In virtue of the *motu proprio*, this now includes the 1962 *Missale Romanum*. Just as the diocesan bishop cannot arbitrarily restrict a priest from celebrating Mass according to the *forma ordinaria*, he cannot arbitrarily restrict use of the 1962 *Missale Romanum* since it constitutes the *forma extraordinaria* of the Roman rite and is to be

⁶⁰ BENEDICT XVI, Letter to bishops, p. 134.

⁶¹ Any validly ordained priest may consecrate the Eucharist, although not all may do so licitly, such as those who cannot exercise their order in virtue of (1) an irregularity or impediment (cf. *CIC/83*, c. 1044); (2) penalties (cf. *CIC/83*, cc. 1331, §1, 2°; 1332, 1333, §1, 1°; 1338, §2); or (3) loss of the clerical state (cf. *CIC/83*, c. 290, 292, 1336, §1, 5°). “While the juridical consequences of ordination can be lost, the power of orders can never be” (F.J. SCHNEIDER, “Loss of the Clerical State,” in *CLSA Comm2*, p. 391)

given “due honour for its venerable and ancient usage” (*SP*, art. 1). One may reasonably argue, then, much like Benedict XVI in his accompanying letter to bishops, that *Summorum Pontificum* has not unduly compromised the diocesan bishop’s authority as moderator of the liturgy in his diocese. Rather, the definition of the Roman rite has been expanded so as to include the *forma extraordinaria*, and it remains the diocesan bishop’s additional task to ensure that these new provisions are properly observed and implemented – much like all other universal ecclesiastical legislation (cf. *CIC/83*, c. 392, §1). Indirectly and when compared to earlier provisions, however, the *motu proprio* has removed the diocesan bishop’s discretion either to permit or restrict the celebration of Mass according to the *forma extraordinaria*, a prerogative he previously enjoyed

An adversarial tone can also be detected in the provisions of the *motu proprio*, as it appears to anticipate difficulties, especially concerning the cooperation of parish priests and diocesan bishops. If the faithful have not obtained satisfaction to their requests from the pastor, they are to notify the diocesan bishop who, in turn, is strongly requested to satisfy their wishes. If he is not willing (*non vult*), the matter is to be referred to the Pontifical Commission *Ecclesia Dei* (*SP*, art. 7). This is the second instance in recent years where the faithful are encouraged to make known to the Holy See perceived abuses of ecclesiastical discipline regarding liturgical matters.⁶² It appears that the Holy See increasingly regards all of the faithful as involved, to various degrees, in identifying and making known to the Holy See perceived violations of ecclesiastical law. Although this is laudable, inasmuch as it is an effective means of realizing the prerogatives of c. 212, concerns have been expressed that

⁶² The first can be found in CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be avoided regarding the Eucharist *Redemptiois Sacramentum*, 25 March 2004, n. 158, in *AAS*, 96 (2004), p. 593, English translation in *Origins*, 33 (2003-2004), p. 817

this might contribute to undermining the diocesan bishop's role as moderator of the liturgical life of his diocese.⁶³

These fears are unwarranted. Although the diocesan bishop has “all ordinary, proper, and immediate power which is required for the exercise of his pastoral function” (*CIC/83*, c. 381, §1), his authority is not absolute. As a member of the college of bishops, the diocesan bishop is subject to the Roman Pontiff who, by virtue of his office, “not only possesses power over the universal Church but also obtains the primacy of ordinary power over all particular churches and groups of them” (*CIC/83*, c. 333, §1). The Roman curia, by which the Roman Pontiff usually conducts the affairs of the universal Church, functions in his name and by his authority (*CIC/83*, c. 360). The Pontifical Commission *Ecclesia Dei*, for instance, is competent “to exercise the authority of the Holy See” regarding the supervision, observance, and application of the provisions of *Summorum Pontificum* (*SP*, art. 12). The ability of the Holy See to intervene “does not detract from the bishop's ability to make decisions in his own diocese, but recognizes that he does not stand in isolation, a monarch in his own diocese, but is part of a wider communion under the ultimate authority of the pope.”⁶⁴ The primacy of ordinary power possessed by the Roman Pontiff and exercised vicariously

⁶³ For instance, in 2001, the CDW intervened in the plans to renovate the Cathedral in Milwaukee, WI, after receiving complaints. The congregation asked the then-archbishop Rembert Weakland, OSB, to reconsider a number of the proposed changes, such as the placement of the altar, tabernacle, and organ (CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Letter to R. Weakland, 30 June 2001, in *CLSGBI Newsletter*, 128 [2001], pp. 56-58). Citing *GIRM*, n. 398 and *CD*, n. 8, Weakland responded: “The role of oversight and intervention of the Congregation cannot arise as a matter of mere taste, but can only come about as a result of a true violation of a norm and, I would judge, a norm of some gravity [...] I must, for the good of the Diocese, of this local Church, defend the position that the right of the local bishop to make judgments in this Diocese cannot be compromised over something as trivial as a matter of taste or opinion. I will defend my decisions as being not only liturgically correct, sound and beneficial, but also as being my prerogative to make. I do so not out of stubbornness, but because at this particular moment in history, it is my obligation to insist on the rights and duties of a local bishop in the Catholic Church.” (R.G. WEAKLAND, Letter sent to the clergy of the Archdiocese of Milwaukee, 5 July 2001, in *CLSGBI Newsletter*, 128 [2001], pp. 60-61). For more background on this case, see R.G. WEAKLAND, *A Pilgrim in a Pilgrim Church: Memoirs of a Catholic Archbishop*, Grand Rapids, MI, W B. Eerdmans Pub. Co., 2009, pp. 395-401

⁶⁴ G. READ, “The Diocesan Bishop as Chief Liturgist: Milwaukee Cathedral,” in *CLSGBI Newsletter*, 128 (2001), p. 70 (=READ, “The Diocesan Bishop as Chief Liturgist”).

through the Roman curia serves to strengthen and protect, rather than to undermine, the proper, ordinary, and immediate power which bishops possess in the particular churches entrusted to their care” (*CIC/83*, c. 333, §1).⁶⁵ Consequently, “[t]he diocesan bishop is indeed the chief Liturgist within his diocese, but is subject to certain limitations.”⁶⁶ These limitations are not unique to *Summorum Pontificum* but are based on sound ecclesiological principles found in both Codes.

5.4 – Minor Orders

Prior to the 1983 Code of Canon Law, one entered the clerical state through reception of first tonsure (*CIC/17*, c. 111, §2). Presently, this occurs through ordination to the diaconate (*CIC/83*, c. 266, §1). The 1917 Code also indentified the minor orders of porter, lector, exorcist, acolyte; major or sacred orders consisted of the subdiaconate, diaconate, and presbyterate (*CIC/17*, c. 949). These rites were conferred by an accompanying liturgical rite as prescribed in the *Pontificale Romanum*. These orders, conferred sequentially by one’s ordinary, were reserved exclusively to those preparing for ordination to the presbyterate (*CIC/17*, c. 973). By means of the 1972 *motu proprio Ministeria quaedam*, Paul

⁶⁵ The Congregation for the Doctrine of the Faith describes the interrelationship between the pope’s supreme, full, and universal power, on the one hand, and the immediate power he exercises in a particular church: “All the bishops are subjects of the *sollicitudo omnium ecclesiarum* as members of the episcopal college which has succeeded to the college of the apostles, to which the extraordinary figure of St. Paul also belonged. This universal dimension of their *episkope* (overseeing) cannot be separated from the particular dimension of the offices entrusted to them. In the case of the bishop of Rome – vicar of Christ in the way proper to Peter as head of the college of bishops – the *sollicitudo omnium ecclesiarum* acquires particular force because it is combined with the full and supreme power in the church: a truly episcopal power, not only supreme, full and universal, but also immediate, over all pastors and other faithful. The ministry of Peter’s successor, therefore, is not a service that reaches each church from outside, but is inscribed in the heart of each particular church, in which “the church of Christ is truly present and active” (*CD*, 11), and for this reason it includes openness to the ministry of unity. This interiority of the bishop of Rome’s ministry to each particular church is also an expression of the mutual interiority between universal church and particular church” (CONGREGATION FOR THE DOCTRINE OF THE FAITH, Reflections on the Primacy of Peter, 30 October 1998, n. 6, in *Communicaciones*, 30 [1998], pp. 210-211, English translation in *Origins*, 28 [1998-1999], p. 561).

⁶⁶ READ, “The Diocesan Bishop as Chief Liturgist,” p. 70.

VI significantly reformed the discipline of first tonsure, the minor orders, and the subdiaconate in the Latin Church:

Minor orders have not always remained the same, however. At one time many functions which went with them were in fact exercised by the laity, as is now happening once again. It seems opportune, therefore, to reform this discipline and to adapt it to present-day needs, eliminating what is obsolete, retaining what is useful and determining what is necessary; and at the same time setting out what is required of candidates for holy orders [. . .] Among the special offices which are to be retained and adapted to present-day needs are some which are especially connected with the ministries of the word and of the altar. In the Latin Church they are the office of lector, the office of acolyte and the subdiaconate. These offices will be reduced to two, that of lector and that of acolyte and the functions of the subdiaconate will be divided between them.⁶⁷

First tonsure, the minor orders of porter and exorcist, and the subdiaconate are no longer to be conferred. *Ministeria quaedam* divided the liturgical functions of the subdiaconate between the orders of lector and acolyte, known henceforth as “ministries”; these instituted ministries are no longer reserved to candidates for ordination. The ministries of lector and acolyte, however, are reserved to men (*CIC/83*, c. 230, §1) and must be received by candidates for the diaconate and priesthood and exercised for a suitable period of time (*CIC/83*, c. 1035, §1).⁶⁸

Despite these measures, the minor orders and the subdiaconate have been conferred on those preparing for presbyteral ordination, using the rites prescribed in the earlier *Pontificale Romanum*, in several communities attached to earlier liturgical forms with the full approbation of the Pontifical Commission *Ecclesia Dei*.⁶⁹ Although the liceity of these

⁶⁷ PAUL VI, Apostolic letter *motu proprio* on first tonsure, minor orders and the subdiaconate *Ministeria quaedam*, 15 August 1972, in *AAS*, 64 (1972), pp. 529-534, English translation in FLANNERY1, p. 427.

⁶⁸ At the end of the twelfth ordinary general assembly of the Synod of Bishops, 5-26 October 2008, propositions were customarily presented to the Roman Pontiff for his consideration. Interestingly enough, the last sentence of proposition 17 reads as follows: “It is hoped that the ministry of lector be opened also to women, so that their role as proclaimers of the word may also be recognized in the Christian community” See *Origins*, 38 (2008-2009), p. 342.

⁶⁹ For instance, the FSSP was granted the following: “In virtue of the faculty granted to it by the Supreme Pontiff John Paul II, the Pontifical Commission ‘*Ecclesia Dei*’ concedes to that which is called the ‘Fraternity of St. Peter,’ founded July 18, 1988 and declared of “Pontifical Right” by the Holy See, the faculty of celebrating Mass, and carrying out the rites of the sacraments and other sacred acts, as well as fulfilling the Divine Office according to the typical edition of the liturgical books in force in the year 1962; namely, the Missal, Ritual, Pontifical, and Roman Breviary.” Pontifical Commission *Ecclesia Dei*, Decree, 10 September

celebrations is not in question, it raises an additional problem in light of c. 1035, that is, the requirement for those to be promoted to the permanent or transitional diaconate to receive the instituted ministries of lector and acolyte. In short, does the reception of the minor orders and subdiaconate, such as practiced in certain institutes, satisfy the juridic requirement of c. 1035 of the 1983 Code? This remains a disputed question, and the Holy See has refrained from offering any definitive clarification.⁷⁰

Although currently confined to a relatively small number of Christ's faithful, it is likely that this issue will assume greater prominence in the future in light of both the Holy See's disposition to satisfy the legitimate requests of those attached to the *forma extraordinaria* and the ongoing official dialogue between the Holy See and members of the Society of St. Pius X. The conferral of minor orders, however, is not a mere idiosyncrasy of the *forma extraordinaria*, something to be tolerated on account of those attached to earlier liturgical forms. Rather, by means of *Ministeria quaedam*, the discipline concerning the conferral of the minor orders and the subdiaconate has undergone a significant revision at the explicit mandate of Paul VI. Either this discipline should to be observed unequivocally throughout the Latin Church – the *forma ordinaria* and *forma extraordinaria* alike – or a change of law is required, that is, the abrogation of *Ministeria quaedam* and a derogation from all applicable canons of the 1983 Code of Canon Law. It may be for this reason that *Summorum Pontificum* has restricted the use of the earlier *Pontificale Romanum* to the sacrament of confirmation alone. By doing so, the *motu proprio* avoids this thorny issue altogether; regrettably, it also fails to provide for circumstances already conceded by the Holy See on an individual basis.

1988 Although possible, the legislator has not extended this same faculty to the entire Latin Church by means of *Summorum Pontificum*

⁷⁰ *Ministeria quaedam*, n. 11, confirms that dispensation from the reception of these ministries is reserved to the Holy See

Following the promulgation of *Ministeria quaedam*, all references to the liturgical functions of subdeacons were removed from the *General Instruction of the Roman Missal*. The Sacred Congregation for Divine Worship confirmed that the subdiaconate was completely suppressed and indicated that the functions previously carried out by subdeacons were to be performed by lectors and acolytes, even those not formally instituted.⁷¹ A similar problem presents itself in light of the liturgical books of the *forma extraordinaria* in as much as these books assign certain liturgical functions to the subdeacon. Since this major order is no longer conferred, for the most part, who is to fulfill this liturgical function? Interestingly enough, this is not a new problem. The liturgical functions of subdeacon were frequently assumed by other clerics well before the subdiaconate was suppressed, in 1972. Also, the Congregation for Sacred Rites permitted, for a reasonable cause, a cleric in minor orders, or even one who was at least tonsured, to fulfill the liturgical functions of a subdeacon. When this occurred, the decree specified the following exceptions:

In this case he does not wear the maniple; he may not wipe the chalice nor pour water into it at the offertory, but leaves this to the deacon, after he has brought the chalice to the altar at the offertory he does not touch it, nor does he cover or uncover it. He does not clean the chalice or any ciboria after the ablutions; this is done by the celebrant. The cleric does, however, arrange the chalice, veil it and carry it back to the credence. Otherwise, he fulfills all the office of a subdeacon.⁷²

Consequently, not only did other clerics fulfill the functions of a subdeacon; they also distinguished themselves through the use of subdiaconal vestments.

⁷¹ SACRED CONGREGATION FOR DIVINE WORSHIP, Presentation on the changes introduced into the *GIRM*, 23 December 1972, in *Notitiae*, 9 (1973), pp. 34-38, English translation in *DOL*, n. 206, pp. 463-464.

⁷² REID, *The Ceremonies of the Roman Rite Described*, pp. 134-135. The decree itself, 4 March 1906, is found in *Decreta authentica Congregationis Sacrorum Rituum*, vol. 6, appendix I-II, Rome, Typis Polyglottis Vaticanis, 1912-1927, pp. 80-81, n. 4181. According to Reid, “[t]he Pontifical Commission *Ecclesia Dei* has confirmed that the practice of an instituted acolyte acting as a subdeacon may be tolerated (7 June 1993, Prot. 24/92). See REID, *The Ceremonies of the Roman Rite Described*, p. 134, footnote 73.

In the absence of a deacon or other ministers, the current law permits their proper parts to be carried out by a concelebrant priest (*GIRM*, n. 208). Although diaconal functions can be fulfilled by a priest, under no condition is the priest to wear diaconal vestments:

Presbyters taking part in the liturgy with the bishop should do only what belongs to the order of presbyter; in the absence of deacons they may perform some of the ministries proper to the deacon, but should never wear diaconal vestments.⁷³

This restriction is based on the norms drawn from the hierarchic and communal nature of the liturgy found in *Sacrosanctum concilium* (nn. 26-32), norms which recognize the distinct, but complementary, functions fulfilled by a variety of liturgical ministers in a hierarchically ordered assembly. While allowing priests or deacons to function as subdeacons with corresponding vestments may be presently tolerated, especially in the absence of any acceptable alternative or definitive clarification, this practice finds no justification in the present law.

5.5 – Customary Law

Customs, introduced by a community of the Christian faithful, can obtain the force of law under certain conditions and, throughout history, have frequently served as an indispensable source of the *ius liturgicum*.⁷⁴ Unlike laws (*leges*) which are promulgated by the competent legislator, legal customs comprise the so-called “unwritten law” and possess the same juridic weight as the law itself.⁷⁵ Before a factual custom can obtain the force of law, it

⁷³ *Ceremonial of Bishops*, n. 22, cf. n. 122

⁷⁴ Chiappetta identifies five conditions under which a factual custom can obtain the force of law. (1) approval of the competent legislator (c. 23), (2) absolute conformity with divine law (c. 24, §1); (3) reasonableness of the custom (c. 24, §2); (4) capacity and intentionality on the part of the community (c. 25); and (5) observance of the prescribed time period (c. 26). See L. CHIAPPETTA, *Il Codice di Diritto Canonico: Commento giuridico-pastorale*, Rome, Edizione Dehoniane, 1996, vol. 1, pp. 77-81.

⁷⁵ For a helpful overview of the role of custom, with particular application to liturgical law, see HUELS, *Liturgy and Law*, pp. 130-143. For an earlier treatment, see J. O’CONNELL, *The Celebration of Mass: A Study of the Rubrics of the Roman Missal*, 3 vols., London, Burns, Oates & Washbourne, 1941-1942, vol. 1, pp. 27-35.

must be approved by the competent legislator (*CIC/83*, c. 23), either in a specific or general manner. Specific approval is given by a legislator either expressly or tacitly. As Huels notes, “the legislator may grant specific approval of a custom *expressly* by indicating this in a public document; or he may approve a custom *tacitly* when he is certainly aware of the practice but does nothing to abolish it, as when the pope witnesses a custom at a Eucharistic celebration”⁷⁶ Specific approval is not a legislative act, whether it is made expressly or tacitly, the author of the custom remains the community, not the legislator.⁷⁷ General approval, on the other hand, occurs in virtue of the law itself after a custom has been legitimately observed for thirty continuous years (*CIC/83*, c. 26). The legislator may be unaware of the existence of the custom but “general approval is still the approval of the legislator because the legislator has determined *in the law* that a custom, whether contrary to or apart from the law, attains the force of law by its legitimate observance for thirty continuous and complete years.”⁷⁸ There are limitations on which types of custom may obtain the force of law. For instance, no custom which is contrary to divine law, whether natural or positive, can obtain the force of law (*CIC/83*, c. 24, §1), just as customs contrary to (*contra ius*) or beyond the law (*praeter ius*) must be reasonable to obtain the force of law (*CIC/83*, c. 24, §2). Any custom expressly reprobated in the law, whether by the legislator or the competent executive authority, is never reasonable.⁷⁹ Finally, “no custom can obtain the force of law unless it has been observed with the intention of introducing a law by a community capable of at least

⁷⁶ HUELS, *Liturgy and Law*, p 138

⁷⁷ *Ibid* , p 139

⁷⁸ *Ibid* , pp 139-140

⁷⁹ Abbo-Hannan also argue that “[c]ustom is not reasonable if it is an occasion of sin, if it is pernicious in relation to public welfare, if it is repugnant to the constitution of the Church or to the fundamental principles of canon law, if it is subversive of ecclesiastical discipline, etc” See J A ABBO and J D HANNAN, *The Sacred Canons. A Concise Presentation of the Current Disciplinary Norms of the Church*, St Louis, MO, B Herder Book Co , 1957, vol 1, p 55

receiving law” (CIC/83, c. 25). Communities capable of receiving law include the faithful of a parish or diocese and even homogenous groups of the faithful within juridic persons, such as the priests of a diocese.⁸⁰

An argument raised with a certain degree of frequency posits that the *forma extraordinaria* is immune from newer legislative innovations – the distribution of communion on the hand and by extraordinary ministers of holy communion, female altar servers, concelebration, for instance – on the basis of contrary customary law.⁸¹ Rothe, for example, argues that the communities attached to the *forma extraordinaria* have observed the custom of not introducing a number of new practices, and they have done so intentionally in accord with c. 25 of the 1983 Code. In other words, since certain communities attached to earlier liturgical forms have continued to observe certain abrogated disciplinary laws, with the tacit approval of the diocesan bishop, these communities have established customs which are now binding, that is, customs that have obtained the force of law. While this may be true for these particular communities, Huels provides a word of caution:

Past experience has indeed shown that the faithful attracted to this liturgy have found disciplinary innovations like female servers and lay ministers of Communion to be particularly repulsive. Nevertheless, it cannot be assumed that all people today who wish to experience the former Roman liturgy are of the same mind. Accordingly, a community that wishes, for example, to have its daughters as well as its sons serving the Mass celebrated according to the former Missal may not be refused the practice on the basis that it is prohibited by the universal law⁸²

Certain communities may have continued to observe abrogated liturgical discipline in accord with cc. 23-28 and, in so doing, have established legally binding customs for their particular communities; these same customs cannot be applied, as a general rule, to all communities that now wish to celebrate the *forma extraordinaria*.

⁸⁰ HUELS, *Liturgy and Law*, p. 137.

⁸¹ See ROTHE, *Liturgische Versöhnung*, pp. 69-71.

⁸² See *Studia canonica*, 43 (2009), p. 273.

Communities which have begun to celebrate Mass according to the *forma extraordinaria*, in virtue of *Summorum Pontificum*, clearly cannot demonstrate the observance of contrary legal customs for thirty continuous and complete years. Nevertheless, it is not imperative that a community attached to earlier liturgical forms prove the existence of a custom *contra legem* so as to avoid a number of the liturgical disciplinary innovations many find objectionable. Since the present law permits but does not require the use of concelebration, female altar servers, lay ministers of holy communion, for instance, these communities are free to refrain from introducing these practices into the celebration of Mass according to the 1962 *Missale Romanum*. Similarly, if members of these communities wish to observe more stringent disciplinary norms – a longer Eucharistic fast and the use of chapel veils, for instance – they may do so for pious or spiritual purposes. The faithful, however, should be made aware that the observance of these practices is optional – even if observed by a large segment of the parish; attendance at a Mass celebrated according to the 1962 *Missale Romanum*, even on a habitual basis, does not require the observance of former disciplinary laws. While the observance of some abrogated liturgical laws may be tolerated, the disciplinary laws currently in force must always serve as the basis for resolving disputed questions concerning liturgical and sacramental discipline.

5.6 – Unity of the Roman Rite and Unity in the Church

The Church is called to maintain communion on two principal levels, with the Triune God and among the Christian faithful. This is both actualized and expressed in a preeminent way in the Church's liturgy. The *Catechism* states that

[i]n every liturgical action the Holy Spirit is sent in order to bring us into communion with Christ and so to form his Body. The Holy Spirit is like the sap of the Father's vine which bears fruit on its branches. The most intimate co-operation of the Holy Spirit and the Church is achieved in the liturgy. The Spirit, which is the Spirit of communion, abides indefectibly in the Church. For this reason the Church is the great sacrament of divine communion which gathers God's

scattered children together. Communion with the Holy Trinity and fraternal communion are inseparably the fruit of the Spirit of the liturgy.⁸³

This same principle finds legislative expression in the 1983 Code of Canon Law. Liturgical actions, the Code states, are not “private functions but celebrations of the Church itself which is *the sacrament of unity (unitatis sacramentum)*, that is, a holy people gathered and ordered under the bishops (*CIC/83*, c. 837, §1). Similarly, the sacraments are both an expression and means of ecclesial communion:

The sacraments of the New Testament were instituted by Christ the Lord and entrusted to the Church. As actions of Christ and the Church, they are signs and means which express and strengthen the faith, render worship to God, and effect the sanctification of humanity and thus contribute in the greatest way to establish, strengthen, and manifest ecclesiastical communion. Accordingly, in the celebration of the sacraments the sacred ministers and the other members of the Christian faithful must use the greatest veneration and necessary diligence (*CIC/83*, c. 840).

For these reasons the sacraments are not routinely administered to other Christians who are not in full communion with the Catholic Church (cf. *CIC/83*, c. 844).

When the revised *Missale Romanum* was promulgated, Paul VI expressed a desire that the reformed missal would serve as an instrument of liturgical unity. As shown above in Chapter III, however, this revised missal became a symbol for opposition to the liturgical reform in general and a catalyst for traditionalist groups to focus their efforts on preserving the Tridentine Missal. Paul VI was forthright in his response to Mgr Lefebvre:

We have sanctioned the reform with our own authority and directed its obligatory use by all who call themselves Catholics. The reason why we have made the judgement, as a matter of general principle, to brook no delays in this regard or to allow no exceptions is the spiritual growth and unity of the whole ecclesial community; for Catholics the *Ordo Missae* of the Roman Rite is a singular sign of their unity. As for you, the former rite of Mass is a sign of your false ecclesiology and a matter on which to assail the council and its work of reform. You take as a pretext or as your alleged justification that only in the former rite are the authentic sacrifice of the Mass and the authentic ministerial priesthood preserved, the meaning unobscured. We reject out-of-hand this erroneous judgement and unjust accusation; we cannot permit the divine Eucharist, sacrament of unity, to be made the source of division (see 1 Cor. 11:18); we cannot permit you to make use of it as an instrument and symbol of your rebellion.⁸⁴

⁸³ CCC, n 1108 The faithful in the full communion of the Catholic Church are “joined with Christ in its visible structure by the bonds of the profession of faith, the sacraments, and ecclesiastical governance” (*CIC/83*, c. 205).

⁸⁴ PAUL VI, Letter to Archbishop Marcel Lefebvre *Cum te*, 11 October 1976, in *Notitiae*, 12 (1976), pp. 417-427, English translation in *DOL*, n. 61, p.186.

Although John Paul II would later permit a broader use of the 1962 *Missale Romanum* by means of *Quattuor abhinc annos*, the importance of maintaining ecclesial communion was repeated.⁸⁵ The circular letter required that there must be “unequivocal, even public evidence that the priest and people petitioning have no ties with those who call into doubt the lawful force and doctrinal soundness of the Roman Missal promulgated in 1970 by Pope Paul VI.” Similarly, the 1962 *Missale Romanum* “is to be used without prejudice to the liturgical reform that is to be observed in the life of each ecclesial community.”⁸⁶ In short, the continued use of the 1962 *Missale Romanum* must not jeopardize the substantial unity of the Church or be associated with erroneous beliefs.

The *motu proprio Ecclesia Dei*, immediately following the illicit episcopal ordinations of Mgr Lefebvre, likewise reiterated the importance of maintaining ecclesial communion.⁸⁷ John Paul II indicated to all those attached to earlier liturgical and disciplinary forms his desire to “facilitate their ecclesial communion by means of the necessary measures to guarantee respect for their rightful aspirations” (5c). The Pontifical Commission *Ecclesia Dei* was erected precisely for this purpose (6a). These measures, however, never changed the juridic

⁸⁵ Woestman provides the following assessment: “Since the introduction of the new Roman Missal in 1970, the Holy See has granted a number of exceptions by allowing individuals or groups to use the so called Tridentine Mass when celebrating the Eucharist. These exceptions were granted in order to meet the special needs of either priests or lay faithful. However, the Holy See has been ever conscious of its obligation of protecting and promoting unity of liturgical worship within the Western Church. In a word, there has been a continuing preoccupation with the preservation of ecclesial unity – *communio*” (W.H. WOESTMAN, “‘*Ecclesia Dei* and Ecclesial Communion’ Revisited,” in *The Jurist*, 55 [1995], p. 900).

⁸⁶ CONGREGATION FOR DIVINE WORSHIP, Circular Letter on the use of the 1962 Roman Missal *Quattuor abhinc annos*, 3 October 1984, in *Communicationes*, 17 (1985), pp. 3-4, English translation in *CLD*, 11, pp. 3-4.

⁸⁷ JOHN PAUL II, Apostolic Letter *motu proprio Ecclesia Dei*, 2 July 1988, in *AAS*, 80 (1988), pp. 1495-1498, English translation in *CLD*, 12, pp. 805-808.

status of the earlier liturgical books; they remained exceptional in nature and were used only when permitted by means of an indult.⁸⁸

Benedict XVI, like his predecessors, indicated that the “positive reason” which motivated his decision to issue *Summorum Pontificum* was “a matter of coming to an interior reconciliation in the heart of the church.”⁸⁹ What sets Benedict XVI apart from his predecessors is that, whereas Paul VI and John Paul II attempted to maintain or achieve ecclesial communion by permitting use of the 1962 *Missale Romanum* as an exception to the normative liturgical books of the Roman rite, Benedict XVI has pursued the same goal through a reconfiguration of the Roman rite. What was once “ordinary” has become “extraordinary” and is to be used alongside the liturgical books promulgated after the Second Vatican Council, constituting, as it were, two usages of the one Roman rite (*SP*, art. 1). The distinction introduced by *Summorum Pontificum* – the *forma ordinaria* and the *forma extraordinaria* – is a remarkably creative approach but also one without any historical precedent. As a result, new challenges to ecclesial communion can be identified. Now that an indult is no longer required to celebrate Mass according to the 1962 *Missale Romanum*, effectively removing episcopal discretion and establishing two usages of the Roman rite, bishops may encounter difficulties ensuring that divisions and misunderstandings do not arise in the Church. This is true not only regarding the liturgy, but for catechesis, formation, and the Christian witness of the ecclesial community.⁹⁰ Nevertheless, it appears that

⁸⁸ Woestman states: “If it had been the pope’s intention to allow anyone to celebrate indiscriminately according to the 1962 missal, he would not have required special authorization for its use. This evidences that it was not his intention to establish a parallel Roman rite – it seems that this would have been contrary to Vatican II which allowed for variations ‘provided that the substantial unity of the Roman rite be preserved’ (*SC* 38; 23)” (W.H. WOESTMAN, “*Ecclesia Dei* and Ecclesial Communion,” in *The Jurist*, 53 [1993], p. 208).

⁸⁹ BENEDICT XVI, Letter to bishops, p. 134.

⁹⁰ A. GRILLO, “Ende der Liturgiereform? Das Motuproprio *Summorum Pontificum*,” in *Stimmen der Zeit*, 225 (2007), pp. 736-737 (=GRILLO, “Ende der Liturgiereform?”). Grillo is also critical of how *Summorum*

Summorum Pontificum is initially bearing fruit, albeit not without some difficulty, seen most especially in the fact that the excommunications have been lifted for the four bishops illicitly ordained by Mgr Lefebvre, and doctrinal discussions are now underway between the Congregation for the Doctrine of the Faith and the Society of St. Pius X.

In addition to the importance of maintaining ecclesial communion, there is also the issue of the unity of the Roman rite itself. The issue of inculturation has consistently presented difficulties in determining what constitutes a legitimate liturgical adaptation. *Sacrosanctum concilium* states that the Church “has no wish to impose a rigid uniformity in matters that do not affect the faith or good of the whole community” but rather “respects and fosters the genius and talents of the various races and peoples” (*SC*, n. 37). Consequently, “[p]rovisions shall also be made, even in the revision of liturgical books, for legitimate variations and adaptations to different groups, regions, and peoples, especially in mission lands, provided the substantial unity of the Roman Rite is preserved” (*SC*, n. 38). In countries of the Western Christian tradition, where the Christian message has already been received, the adaptations foreseen in the revised liturgical books are perceived as sufficient to allow for legitimate local diversity (*VL*, n. 7).⁹¹

Although adaptations – even more profound adaptations (*SC*, n. 40) – are authorized, the Holy See has consistently stressed the importance of preserving the substantial unity of the Roman rite.⁹² For instance, *Varietates legitimæ* states:

Pontificum seemingly bypasses the ordinary competence of the Congregation for Divine Worship and the Discipline of the Sacraments in preference of the Pontifical Commission *Ecclesia Dei*, a dicastery he feels has not sufficiently demonstrated its impartiality regarding the matters identified above.

⁹¹ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on the Roman liturgy and inculturation *Varietates legitimæ*, 25 January 1994, in *AAS*, 87 (1995), pp. 288-314, English translation in *Origins*, 23 (1993-1994), p. 747 (= *VL*).

⁹² For example, in 1988 the Holy See approved a significantly adapted Roman Missal for use in the dioceses of *Zaire*, now the *République démocratique du Congo*. Although commonly called the Zairean or Congolese

The process of inculturation should maintain the substantial unity of the Roman rite. This unity is currently expressed in the typical editions of liturgical books, published by authority of the supreme pontiff and in the liturgical books approved by the episcopal conferences for their areas and confirmed by the Apostolic See. The work of inculturation does not foresee the creation of new families of rites; inculturation responds to the needs of a particular culture and leads to adaptations which still remain part of the Roman rite (*VL*, n. 36).

Similarly, *Liturgiam authenticam* affirms that the Roman rite itself should be seen as a preeminent example of true inculturation: “For the Roman Rite is marked by a signal capacity for assimilating into itself spoken and sung texts, gestures and rites derived from the customs and the genius of diverse nations and particular Churches – both Eastern and Western – into a harmonious unity that transcends the boundaries of any single region.”⁹³ Liturgical adaptation or inculturation, therefore, should not result in the “creation of new varieties or families of rites; on the contrary, it should be recognized that any adaptations introduced out of cultural or pastoral necessity thereby become part of the Roman Rite, and are to be inserted into it in a harmonious way” (*LA*, n. 5). *Redemptionis Sacramentum* also affirms the Catholic community’s right that Most Holy Eucharist “should be carried out in such a manner that it truly stands out as a sacrament of unity, to the exclusion of all blemishes and actions that might engender divisions and factions in the Church” (n. 12).⁹⁴ In short, substantial adaptations to the Roman rite are to occur on a rather infrequent basis since: (1) the Roman Rite has already incorporated, “in a deep, organic, and harmonious way,” usages derived from other customs and cultures – of both East and West – and has thus obtained a “supraregional character” (*GIRM*, n. 397); and (2) the use of the *Missale*

Rite, the adapted Missal was approved under the title *Roman Missal for the Dioceses of Zaire*, thereby emphasizing the substantial unity of the Roman rite (*Missal Roman pour les dioceses du Zaire*, Editions du Secrétariat Général, Kinshasa, 1988). For the decree of promulgation, see *Notitiae*, 24 (1988), p. 457.

⁹³ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on the principles and norms for translation of liturgical texts *Liturgiam authenticam*, 28 March 2001, in *AAS*, 93 (2001), pp. 685-726, English translation in *Origins*, 31 (2002-2002), p. 19 (=LA).

⁹⁴ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be observed or avoided regarding the Eucharist *Redemptionis Sacramentum*, 25 March 2004, in *AAS*, 96 (2004), pp. 549-601, English translation in *Origins*, 33 (2003-2004), p. 804

Romanum is “an outstanding sign of the integrity and unity of the Roman rite” (*GIRM*, n. 399). In light of the importance of liturgical unity, and the emphasis placed upon this by the Holy See, “it is far from being self-evident how Benedict XVI decided [...] to recognize two expressions of the Roman Rite.”⁹⁵

Benedict XVI has approached the issue of ecclesial communion in a remarkably different manner than his predecessors. In order to promote ecclesial communion, *Summorum Pontificum* has introduced an unprecedented distinction into the Roman rite. Two forms – the *forma ordinaria* and the *forma extraordinaria* – now comprise the “one Roman rite.”⁹⁶ While such a distinction may function as an immediate panacea for those attached to earlier liturgical forms and as a catalyst for dialogue with the Society of St. Pius X, it remains unclear how these two forms may serve as both a mutually enriching gift to the Church’s liturgical patrimony and as a source of liturgical and ecclesiastical unity. For instance, if the Roman rite can have two parallel forms, the latter of which is a merely a revision of the former, why is it not theoretically possible to recognize additional forms, such as ancient liturgical books which have long since fallen into desuetude or contemporary forms that are

⁹⁵ HAUNERLAND, “Ein ritus in zwei ausdrucksformen?,” p. 180. Rehak is critical of the characterization of the Missals of 1962 and 1970 as two expressions of the Roman Rite. He argues that this calls into question the meaning and import of *SC*, n. 38 which speaks of the “substantial unity of the Roman rite” (REHAK, *Der außerordentliche Gebrauch der alten Form des Römischen Ritus*, pp. 24-28).

⁹⁶ A similar approach has been taken with regard to those seeking full ecclesiastical communion from the Anglican Communion. Although *Anglicanorum coetibus* does not further distinguish the Roman rite, it does encourage a plurality of liturgical expressions within the Latin Church *sui iuris* as a means of achieving and maintaining ecclesiastical communion. *Anglicanorum coetibus*, III, states the following: “Without excluding liturgical celebrations according to the Roman rite, the Ordinariate has the faculty to celebrate the holy Eucharist and the other sacraments, the Liturgy of the Hours and other liturgical celebrations according to the liturgical books proper to the Anglican tradition, which have been approved by the Holy See, so as to maintain the liturgical, spiritual and pastoral traditions of the Anglican Communion within the Catholic Church as a precious gift nourishing the faith of the members of the Ordinariate and as a treasure to be shared” (BENEDICT XVI, Apostolic Constitution on new structures for welcoming former Anglicans into the Catholic Church *Anglicanorum coetibus*, 4 November 2009, in *Origins*, 39 [2000-2010], p. 389).

appropriately adapted to modern circumstances?⁹⁷ *Summorum Pontificum* has seemingly undermined an argument articulated rather frequently by the Holy See since the Second Vatican Council; the use of the same *Missale Romanum*, “even if in different languages and some variety of customs” is no longer “an instrument and an outstanding sign of the integrity and unity of the Roman Rite” (*GIRM*, n. 399). Rather, the Roman rite is now comprised of two parallel forms, the first of which is comprised of liturgical books reformed in light of the criteria of *Sacrosanctum concilium*, and the second of which entirely predates the Second Vatican Council.⁹⁸

Distinguishing the Roman rite into two forms, however, does not necessarily result in liturgical and ecclesial division. The *General Instruction of the Roman Missal* recalls that the “identity and unitary expression” of the Roman rite is found in the *editiones typicae* of the liturgical books promulgated by authority of the Roman Pontiff, and in those liturgical books that correspond to those approved by the conference of bishops with the *recognitio* of the Holy See. Liturgical books approved by conferences of bishops often incorporate adaptations and variations from the original *editio typica*.⁹⁹ If the duly approved vernacular

⁹⁷ Cameron-Mowat critically questions the decision to introduce a distinction into the Roman rite: “Other pastoral and canonical consequences will arise from the adoption of the language ‘ordinary’ and ‘extraordinary’ and the possibility of ‘usages’ within the one Roman Rite. What will happen, say, if parishes decide to reject the forthcoming translation of the liturgy into the vernacular? Does this *Motu Proprio* set a precedent for parishes with ‘1970 vernacular usage’ and others with ‘2008 vernacular usage’? Will the 2008 translation become the ‘ordinary’ one and the 1970 one ‘extraordinary’?” (CAMERON-MOWAT, “*Summorum Pontificum* A Response,” p. 10).

⁹⁸ This is a remarkable departure from the earlier *praxis curiae*. In response to a request from the *International Federation Una Voce* petitioning for the unrestricted use of the former rites, to be used alongside the revised rites, Archbishop Giovanni Battista Re, substitute at the Secretariat of State, stated the following. “Par le motu proprio *Ecclesia Dei*, l’usage du Missel romain approuvé en 1962 a été concédé à certaines conditions. Les diverses dispositions prises depuis 1984 avaient pour but de faciliter la vie ecclésiale d’un certain nombre de fidèles, sans pérenniser pour autant les formes liturgiques antérieurs. La loi générale demeure l’usage du rite rénové depuis le Concile, alors que l’usage du rite antérieur relève actuellement de privilèges qui doivent garder le caractère d’exceptions” (*La Documentation catholique*, 92 [1995], p. 310). Continued use of the 1962 *Missale Romanum* was permitted to facilitate ecclesial communion and not to perpetuate earlier liturgical forms.

⁹⁹ Frequently, variations and adaptations are anticipated in the Latin *editio typica* itself. See, for example, *De Benedictionibus, editio typica*, nn. 39, *De Ordinatione episcopi, presbiterorum, et diaconorum, editio typica altera*, n. 11; *Ordo*

translations can incorporate adaptations from the original *editio typica* without comprising the identity and unitary expression of the Roman Rite, it reasonably follows that the Roman rite can also be broadened to include two distinct forms without comprising the same.¹⁰⁰ *Summorum Pontificum* insists that the distinction it introduced will not compromise the substantial unity of the Roman rite: “these two expressions of the church’s *lex orandi* will in no way lead to a division in the church’s *lex credendi*. They are in fact two usages of the one Roman rite” (*SP*, art 1). Whether this assertion is an honest appraisal or an idealistic wish will only be known through the passage of time. As Sánchez-Gil notes, however, *Summorum Pontificum* is not presented as a final or unchangeable solution but as the first possible enrichment of both Missals and the *ars celebrandi* in the Roman rite. *Summorum Pontificum*, then, is best seen not as a capitulation to the irreconcilability of the two forms of the Roman Rite, but as an attempt to achieve “an interior reconciliation in the heart of the church,”¹⁰¹ that is, to overcome the exaggeration and extremism that has occasionally characterized various interpretations of the Second Vatican Council and reactions to the principal objectives of the post-conciliar liturgical reform.¹⁰²

5.7 – Full, Conscious, and Active Participation in the Liturgy

One of the most frequent criticisms leveled against the *forma extraordinaria* is that it perpetuates the passivity of earlier generations, whereby the lay faithful are perceived as

celebrandi Matrimonium, editio typica altera, nn 39-44 Huels provides an overview of the mandatory and facultative adaptations scattered throughout the *GIRM* concerning the celebration of Mass (See HUELS, *Liturgy and Law*, p 122)

¹⁰⁰ Baldwin concludes otherwise “I find it difficult to understand how having two forms of the Roman Rite will serve [Benedict XVI’s] stated intention of unifying the Church. It seems to me that it will do the opposite” (J F BALDOVIN, “Reflections on *Summorum Pontificum*, in *Worship*, 83 [2009], p 111)

¹⁰¹ BENEDICTI XVI, Letter to bishops, p 134

¹⁰² A S SANCHEZ-GIL, “Gli innovativi profili canonici del Motu Proprio *Summorum Pontificum* sull’uso della liturgia Romana anteriore alla riforma del 1970,” in *Ius Ecclesiae*, 19 (2007), pp 692-693

silent spectators of a liturgical ritual that they fail to comprehend.¹⁰³ O'Connell, commenting on the importance of active participation in the liturgy shortly after the promulgation of *Sacrosanctum concilium*, provides the following critical assessment of the existing liturgy:

A frequent experience, especially in crowded churches in large centres of population, is to see a priest at a distant altar murmuring something to a small boy, behind him a big congregation which – so far as their external behaviour is concerned, and there is no other way by which ordinary mortals can judge them – seems to have little or nothing to do with what is happening at the altar. External participation in the rite for many consists solely of standing for the Gospels, kneeling for the Consecration (having sat down until just before it) and, possibly, for the Communion, with perhaps, an occasional bow or sign of the Cross. Many appear to think that mere physical presence, with some vague ideas about worship, and the minimum of attention to the liturgy, suffices. Sometimes many are actually outside the church; some can't even see the altar or hear what is being said. While some are endeavouring to follow a rapid rite in an unknown tongue by using a missal or a prayer book, others are reciting the Rosary or engaged in their private 'devotions'; many seem to be doing just nothing at all, they are apathetic, obviously bored, hoping for a 'quick Mass' and a prompt escape from the church.¹⁰⁴

While it would be grossly unfair to characterize all celebrations of the Mass in this way, it does serve to illustrate the difficulties encountered before the Second Vatican Council and the circumstances that *Sacrosanctum concilium* was attempting to address.

Of all the aims of *Sacrosanctum concilium*, the restoration of the full and active participation of the Christian faithful is to be considered before all else in the reform and promotion of the liturgy:

Mother Church earnestly desires that all the faithful should be led to that full, conscious, and active participation in liturgical celebrations which is demanded by the very nature of the liturgy, and to which the Christian people, "a chosen race, a royal priesthood, a holy nation, a redeemed people" (1 Pt. 2:9, 4-5) have a right and obligation by reason of their baptism (SC, n. 14).

Consequently, the faithful should be encouraged to take part in the liturgy by means of "acclamations, responses, psalms, antiphons, hymns, as well as by actions, gestures, and

¹⁰³ Grillo, for instance, argues that *Summorum Pontificum* seemingly allows the church to live concurrently in the present and past, the choice of which is not that of the diocesan bishop but the decision of the faithful and the freedom of the individual priest. He particularly laments the fact that this scenario seemingly permits so many objectives of the liturgical reform, expressed in *Sacrosanctum concilium*, nn. 47-57, to become merely optional. These include rediscovering the wealth of the Bible, the importance of the homily, inclusion of the prayers of the faithful, appropriate use of the vernacular, the unity of the two tables, communion under both kinds, concelebration, and the active participation of the faithful (GRILLO, "Ende der Liturgiereform?" p. 737).

¹⁰⁴ J.B. O'CONNELL, *Active Sharing in Public Worship: A Commentary on the Chief Purpose of the Second Vatican Council's Constitution on the Sacred Liturgy*, London, Burns & Oates, 1964, p. 12 (=O'CONNELL, *Active Sharing in Public Worship*).

bodily attitudes.” At appropriate times, a reverent silence should also be observed (SC, n. 30). *Sacrosanctum concilium* foresees two ways for making this possible, namely, a liturgical education of the clergy and the faithful, and a reform of the liturgy itself.¹⁰⁵ While greater attention has been paid to the latter, perhaps at the expense of the former, there is no doubt that a proper liturgical formation of both the clergy and faithful is indispensable. The intervening years have shown, however, that this has not sufficiently occurred and, under the aegis of promoting *participatio actuosa* and fidelity to Second Vatican Council, all sorts of novelties have been introduced into the liturgy, with varying degrees of success.¹⁰⁶

Ratzinger has argued that the principle of *participatio actuosa* has at times been distorted or exaggerated: “But what does this active participation come down to? What does it mean that we have to do? Unfortunately, the word was very quickly misunderstood to mean something external, entailing a need for general activity, as if as many people as possible, as often as possible, should be visibly engaged in action.”¹⁰⁷ This same observation

¹⁰⁵ These two means of promoting the active participation of the faithful are explored in W. BARAÚNA, “Active Participation, the Inspiring and Directive Principle of the Constitution,” in W. BARAÚNA (ed.) and J. LANG (ed. of English edition), *The Liturgy of Vatican II*, 2 vols., Chicago, Franciscan Herald Press, 1966, vol. 1, pp. 131-193

¹⁰⁶ Francis Cardinal Arinze, Prefect of the Congregation for Divine Worship and the Discipline of the Sacraments from 2002 to 2008, identifies several forms of inappropriate “activism” in liturgical participation. “They seemed to be pushing an unwritten agenda of active participation at all costs, in all sorts of ways, by everyone and in all parts of the liturgy if possible. Sometimes this led to noisy celebrations in which the roles of ordained priests and the lay faithful who have the royal priesthood were confused. Silence and times for meditative listening were apparently not considered important [...] Sometimes such tendencies appeared in choirs dominating the celebrations, occupying positions that distract the congregation and edging out the priest celebrant to a role of secondary importance. At other times, activism appears in endless commentaries where the speaker is probably unconsciously projecting self-image and is doing his or her best not to allow the priest or the people to have a quiet moment. A recent craze for so-called active participation is the idea that there must be dance at a solemn Mass” (F. ARINZE, “Active Participation in the Sacred Liturgy,” in *Cardinal Reflections: Active Participation and the Liturgy*, Chicago/Mundelein, IL, Hillenbrand Books, 2005, pp. 19-20).

¹⁰⁷ J. RATZINGER, *The Spirit of the Liturgy*, trans. J. SAWARD, San Francisco, Ignatius Press, 2000, p. 171. Ratzinger continues: “However, the word ‘participation’ refers to a principal action in which everyone has a ‘part’ [...] By the *actio* of the liturgy the sources mean the Eucharistic Prayer. The real liturgical action, the true liturgical act, is the *oratio* [...] This *oratio* – the Eucharistic Prayer, the ‘Canon’ – is really more than speech; it is *actio* in the highest sense of the word [...] We should be clearly aware that external actions are quite secondary here. *Doing* really must stop when we come to the heart of the matter: the *oratio*. It must be plainly evident that

has also been expressed in more recent documents of the Holy See. The instruction *Redemptionis Sacramentum*, noted that

from the fact that the liturgical celebration obviously entails activity, it does not follow that everyone must necessarily have something concrete to do beyond the actions and gestures, as if a certain specific liturgical ministry must necessarily be given to the individuals to be carried out by them. Instead, catechetical instruction should strive diligently to correct those widespread superficial notions and practices often seen in recent years in this regard, and ever to instill anew in all of Christ's faithful that sense of deep wonder before the greatness of the mystery of faith that is the Eucharist, in whose celebration the Church is forever passing from what is obsolete into newness of life: "*in novitatem a vetustate.*"¹⁰⁸

Benedict XVI's post-synodal apostolic exhortation *Sacramentum caritatis* makes a similar observation:

Certainly, the renewal carried out in these past decades has made considerable progress towards fulfilling the wishes of the Council Fathers. Yet we must not overlook the fact that some misunderstanding has occasionally arisen concerning the precise meaning of this participation. It should be made clear that the word 'participation' does not refer to mere external activity during the celebration. In fact, the active participation called for by the Council must be understood in more substantial terms, on the basis of a greater awareness of the mystery being celebrated and its relationship to daily life.¹⁰⁹

Authentic active participation is achieved when individuals with a genuine liturgical purpose – presiders, servers, lectors, acolytes, and members of a choir, for instance – fulfill their function in a correct and orderly manner (*SC*, n. 29). It is also achieved in the proclamation and comprehension of the Word of God and other prayers, and by encouraging the faithful to take part by means of acclamations, responses, psalms, antiphons, and songs (*SC*, n. 30). Nevertheless, for the liturgy to produce its full effects "it is necessary that the faithful come to it with proper dispositions, that their minds be attuned to their voices, and that they cooperate with heavenly grace lest they receive it in vain" (*SC*, n. 11). Pastors of souls are to

the *oratio* is the heart of the matter, but this it is important precisely because it provides a space for the *actio* of God" (*ibid* , pp. 171-174).

¹⁰⁸ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, Instruction on certain matters to be observed or avoided regarding the Eucharist *Redemptionis Sacramentum*, 25 March 2004, n. 40, in *AAS*, 96 (2004), p. 563, English translation in *Origins*, 33 (2003-2004), p. 808.

¹⁰⁹ BENEDICT XVI, Post-synodal apostolic exhortation on the Eucharist *Sacramentum caritatis*, 22 February 2007, n. 52, Libreria editrice Vaticana, 2007, English translation in *Origins*, 36 (2006-2007), p. 644.

ensure that “the faithful take part fully aware of what they are doing, actively engaged in the rite and enriched by it” (*SC*, n. 11).¹¹⁰

A proper interior disposition, then, is necessary for fruitful participation in the liturgy.

As *Sacramentum caritatis* notes,

Active participation in the eucharistic liturgy can hardly be expected if one approaches it superficially, without an examination of his or her life. This inner disposition can be fostered, for example, by recollection and silence for at least a few moments before the beginning of the liturgy, by fasting and, when necessary, by sacramental confession. A heart reconciled to God makes genuine participation possible. The faithful need to be reminded that there can be no *actuosa participatio* in the sacred mysteries without an accompanying effort to participate actively in the life of the Church as a whole, including a missionary commitment to bring Christ's love into the life of society (n. 55).

Active participation necessarily entails internal participation – “the basis and soul of all worship”¹¹¹ – so that the faithful, “through a good understanding of the rites and prayers” are able to “take part in the sacred service conscious of what they are doing, with devotion and full involvement” (*SC*, n. 48). John Paul II referred this interior disposition as “active passivity”:

Active participation certainly means that in gesture, word, song and service all the members of the community take part in an act of worship which is anything but inert or passive. Yet active participation does not preclude the active passivity of silence, stillness and listening: indeed, it demands it. Worshipers are not passive, for instance, when listening to the readings or the homily, or following the prayers of the celebrant and the chants and music of the liturgy. These are experiences of silence and stillness, but they are in their own way profoundly active. In a culture which neither favors nor fosters meditative quiet, the art of interior listening is learned only with difficulty. Here we see how the liturgy, though it must always be properly inculturated, must also be countercultural.¹¹²

¹¹⁰ Jorge A. Cardinal Medina Estévez, prefect of the Congregation for Divine Worship and the Discipline of the Sacraments from 1998 to 2002, makes the following observation: “Hence, the phrases: ‘come to it,’ ‘take part,’ ‘take part fully aware,’ ‘actively engaged’ and ‘attuned’ do not only merely concern external aspects but above all and primarily inter, spiritual dispositions. Were this not the case, the liturgical celebration would inevitably become a sort of performance or rather, a folklore display or any empty ritual and hence, a gymnastic or choreographic exercise!” (J.A. MEDINA ESTEVEZ, “Commentary on the Instruction *Redemptionis Sacramentum*: Participating in the Sacred Liturgy,” in *Cardinal Reflections: Active Participation and the Liturgy*, Chicago/Mundelein, IL, Hillenbrand Books, 2005, p. 30).

¹¹¹ O’CONNELL, *Active Sharing in Public Worship*, p. 14.

¹¹² JOHN PAUL II, Address to bishops of the United States on their *ad limina visit*, 9 October 1998, in *AAS*, 91 (1999), p. 353.

In short, active participation, as envisioned by the Second Vatican Council, requires “greater awareness of the mystery being celebrated and its relationship to daily life.”¹¹³

As indicated in chapter I, the promotion of active participation did not arise at the Second Vatican Council but has long been a concern of the Holy See. In fact, the phrase “active participation” originated with Pius X in the *motu proprio Tra le sollecitudini* (1903). The principle was endorsed by Pius XI in *Divini cultus* (1928), and strongly encouraged in *De musica sacra* (1958), an instruction approved *in forma specifica* by Pius XII.¹¹⁴ The importance of *participatio actiosa*, then, is a well-established pre-conciliar principle that applies equally well to what is now called the *forma extraordinaria*.

Clearly, the 1962 *Missale Romanum* does not conform to the explicit conciliar request for a revision of the *Ordo Missae*, so as to “readily achieve the devout, active participation of the faithful” (*SC*, n. 48). Nevertheless, the *participatio actiosa* of the faithful can be achieved. By its very nature, the sacred liturgy demands the active participation of the faithful. This participation, as the instruction *De musica sacra*, n. 22, recalls, can take three complementary forms: (1) *interior participation*, “exercised in devout attention of the mind and in the affections of the heart;”¹¹⁵ (2) *external participation*, that is, “when this interior attention is joined to an outward participation, manifested by external acts, such as the position of the body (kneeling, standing, sitting), ceremonial gestures and, above all, by the responses, prayers,

¹¹³ *Sacramentum caritatis*, n. 52

¹¹⁴ Ruff argues that “[w]hat began in 1903 as an opening to the laity in a liturgy understood in basically clerical terms had become by the 1950s a central element of the magisterium’s understanding the liturgy” (A. RUFF, *Sacred Music and Liturgical Reform: Treasures and Transformations*, Chicago, Hillenbrand Books, 2007, p. 311).

¹¹⁵ *Mediator Dei* recalls that “all the faithful should be aware that to participate in the Eucharistic sacrifice is their chief duty and supreme dignity, and that not in an inert and negligent fashion, giving way to distractions and day-dreaming, but with such earnestness and concentration that they may be united as closely as possible with the High Priest [...] and together with him and through him let them make their oblation, and in union with him let them offer up themselves” (*MD*, n. 80). *Sacrosanctum concilium* similarly recalls that the faithful, “by offering the immaculate Victim, not only through the hands of the priest, but also with him, they should before formed day by day into an ever more perfect unity with God and with each other, so that finally God may be all in all” (*SC*, n. 48).

and singing”¹¹⁶; and, finally (3) *sacramental participation*, by which the faithful who are present communicate “not only in spiritual desire but also by the sacramental partaking of the Eucharist, that thereby they may derive from this most sacrifice a more abundant fruit.”¹¹⁷ Although all three forms of participation apply equally well to the *forma ordinaria* and the *forma extraordinaria*, the second form – external participation – will be manifested differently in each.

The active external participation of the faithful in celebrations of the *forma extraordinaria* can be effectively achieved in three incremental stages. These stages, for both the *Missae in cantu* and the *Missae lectae*, are identified in *De musica sacra* and examined in chapter I (see 1.4.2.3 above).¹¹⁸ The instruction identifies the so-called dialogue Mass as the “most perfect manner of external participation” (*DMS*, n. 31). Although the term is now antiquated, a dialogue Mass was unique in that it encouraged the congregation to make the proper responses in unison in place of the acolyte, who had hitherto made the responses on their behalf. In this form of participation, *De musica sacra* identifies four progressive stages in which the faithful may participate: (1) providing the easiest liturgical responses to the celebrant, namely, *Amen; Et cum Spiritu; Deo gratias; Gloria tibi, Domine; Laus tibi, Christe; Habemus ad Dominum; Dignum et iustum est; and Sed libera nos a malo*; (2) reciting the responses that the rubrics require of the acolyte and, if communion is distributed, also the *Confiteor* and the triple *Domine non sum dignus*; (3) reciting parts of the ordinary of the Mass with the

¹¹⁶ CONGREGATION FOR SACRED RITES, Instruction on sacred music and liturgy *De musica sacra*, 3 September 1958, n. 22, in *AAS*, 50 (1958), pp. 637-638, English translation in SEASOLTZ, *The New Liturgy*, p. 261 (= *DMS*)

¹¹⁷ COUNCIL OF TRENT, Session XXII, chapter VI, Teaching on the Mass in which the priest alone communicates, 17 September 1562, English translation in H. J. SCHROEDER, *Canons and Decrees of the Council of Trent*, Rockford, IL, Tan Book and Pub., 1978, p. 147

¹¹⁸ The instruction *Musicae sacram*, published before the revised *Missale Romanum* in 1967, also identifies how active participation can be promoted and manifested by singing. See CONGREGATION FOR SACRED RITES, Instruction on music in the liturgy *Musicae sacram*, 5 March 1967, n. 16, in *AAS*, 60 (1967), pp. 87-105, English translation in *DOL*, n. 508, p. 1296

celebrant, such as, the *Gloria*, *Credo*, *Sanctus*, and *Agnus Dei*; and (4) reciting with the celebrant parts of the proper of the Mass: the introit, gradual, offertory, and communion antiphons (n. 30). *De musica sacra* also confirms that it is appropriate for the faithful to recite the entire *Pater noster* along with the celebrant (*DMS*, n. 31).

Since those assisting at Mass according to the 1962 *Missale Romanum* do so conscientiously and on their own volition, their engagement with earlier liturgical forms is quantifiably different than that of the general Catholic population before the Second Vatican Council. Participation in the *forma extraordinaria* is deliberately sought out – often at a great inconvenience and personal effort – for a variety of reasons, ranging from a rejection of the reforms initiated by the Second Vatican Council to a sincere preference for Gregorian chant and liturgical solemnity. One cannot presume, then, that those assisting at such Masses do so without any degree of personal investment or liturgical comprehension. Not all of those attached to earlier liturgical forms can be accused of what Paul VI identified as “a certain spiritual laziness,” that is, “the refusal to make the personal effort toward understanding and participation.”¹¹⁹ Rather, through a deliberate choice on their part, the faithful seek out celebrations of the *forma extraordinaria*, frequently equipped with necessary liturgical aids, additional liturgical formation and an appropriate interior disposition. In so doing, the faithful are able to qualitatively attain, against greater odds, what regrettably and frequently escapes celebrations of the *forma ordinaria*: the full, conscious, and active participation of the Christian faithful.

While it may not be possible for the entire congregation to achieve the fourth stage of participation noted above – indeed, it is even rare in celebrations utilizing the vernacular –

¹¹⁹ PAUL VI, Address to a general audience on reactions to the reform of the liturgy, 17 March 1965, in *L'Osservatore Romano*, 105 (18 March 1965), p. 1, English translation in *DOL*, n. 27, p. 115. See also 3.1.1 above.

the full, conscious, and active participation of the faithful can be effectively promoted in celebrations of the *forma extraordinaria*¹²⁰ An instruction applying the principles of *Sacrosanctum concilium* to the *forma extraordinaria*, identifying specifically how *participatio actiosa* can be promoted and achieved, would be extraordinarily beneficial, especially in light of the anticipated increase of the number of Masses celebrated according to the 1962 *Missale Romanum*. In this way, the *forma extraordinaria* may be celebrated with the meaningful participation of the faithful, in conformity with the Second Vatican Council and current ecclesiastical legislation, “not merely out of the duty of obedience to authority, but because [the faithful] have realized its value for their Christian life and have learned to want and seek it as fulfilling a spiritual need.”¹²¹

Conclusion

In his accompanying letter to bishops, Benedict XVI dismissed fears that *Summorum Pontificum* would lead to disarray or divisions within parishes largely on the premise that, since the *forma extraordinaria* requires “a certain degree of liturgical formation and some knowledge of the Latin language,” the new missal will remain the *forma ordinaria* “not only on account of the juridical norms but also on account of the actual situation of the communities of the faithful.”¹²² Doubtless this is true where the *forma extraordinaria* is of no particular interest or celebrated infrequently. Where the *forma extraordinaria* is celebrated frequently

¹²⁰ *De musica sacra* also encouraged the use of a commentator, someone who can “explain the rites and the prayers or lessons being read by the celebrant or his sacred ministers” and “direct the external participation of the faithful – their responses, prayers and songs” (n 96) Experience has shown, however, that commentators frequently serve as distractions, they should be used sparingly so as to avoid “any tendency toward didacticism” (B T MORRILL and S K ROLL, “The Duties and Ministries in the Mass” in E FOLEY, N D MITCHELL and J M PIERCE [eds], *A Commentary on the General Instruction of the Roman Missal*, Collegeville, MN, Liturgical Press, 2007, p 217) Despite *De musica sacra*’s restrictions, women may legitimately function as commentators The commentator fulfills his/her liturgical function “in an appropriate place, but not at the ambo” (*GIRM*, n 105b)

¹²¹ O’CONNELL, *Active Sharing in Public Worship*, p 32

¹²² BENEDICT XVI, Letter to bishops, p 133

alongside the *forma ordinaria*, either at the request of a stable group or on the initiative of a priest, tensions are reasonably anticipated. This chapter has attempted to identify a number of these issues and offer a resolution in light of the present law. These considerations have demonstrated, above all else, the need for additional clarification, specifically concerning how the precepts of the law are to be appropriately applied (*CIC/83*, c. 34, §1). Although the issuance of an instruction has been rumoured for some time, the recent reconfiguration of the Pontifical Commission *Ecclesiae Dei* and other considerations seem to have delayed its publication.¹²³ An instruction or general decree to address the most egregious discrepancies and pressing difficulties would be most useful at the present time. Ancillary matters, particularly rubrical concerns, can be left to later clarifications of the Pontifical Commission *Ecclesia Dei* or, perhaps, the Congregation for Divine Worship and the Discipline of the Sacraments. Ensuring that the *praenotanda* of earlier liturgical books conform to the present law will require effort to ensure legislative uniformity without, of course, compromising the particularities of earlier liturgical forms.¹²⁴ It would be counterintuitive, after all, if the *forma extraordinaria* were to be revised in such a way as to be virtually indistinguishable from the *forma ordinaria*. Nevertheless, the present law shall always serve as the basis for resolving disputed disciplinary matters.

While canonical discrepancies can be resolved through the observance of the *ius vigens*, further adaptations to the 1962 *Missale Romanum* and other rites will require careful consideration in light of the unique characteristics of the *forma extraordinaria*. The adaptations explicitly foreseen by Benedict XVI – the addition of new saints and prefaces – cannot be

¹²³ Perhaps an instruction will be issued after the evaluation period of three years. In his accompanying letter to bishops, Benedict XVI states: “Furthermore, I invite you, dear brothers, to send to the Holy See an account of your experiences, three years after this *motu proprio* has taken effect. If truly serious difficulties come to light, ways to remedy them can be sought” (BENEDICT XVI, Letter to bishops, p. 134).

¹²⁴ One is reminded of the following quotation attributed to St. Augustine: “*In necessariis unitas, in dubis libertas, in omnibus caritas.*”

achieved without a revision of the accompanying *Calendarium Romanum*. The feast of one saint cannot be celebrated, for the most part, without displacing the commemoration of another. The examination of practical possibilities for adaptation has been entrusted to the Pontifical Commission *Ecclesia Dei*, in consultation with other bodies devoted to the *usus antiquior*. It is expected that such adaptations, to avoid the appearance of “manufacturing” the liturgy, will take time before they are approved and authorized for use.¹²⁵ In the meantime, adherence to the current disciplinary laws will ensure that the arbitrary imposition of abrogated liturgical laws is avoided and conflicts are minimized. In this way, the Eucharist, source and summit of the life and mission of the Church, will no longer serve as source of division but as a concrete manifestation of ecclesial communion (cf. *CIC/83*, c. 897; *LG*, n. 11).

¹²⁵ A frequent criticism of the post-conciliar liturgical reform is that it was “manufactured” by scholars and imposed by legislative means. Ratzinger, for instance, states that the “[l]iturgy does not come about through regulation. One of weaknesses of the postconciliar liturgical reform can doubtless be traced to the armchair strategy of academics, drawing up things on paper which, in fact, would presuppose years of organic growth [...] The Missal can no more be mummified than the Church herself. Yet, with all its advantages, the new Missal was published as if it were a book put together by professors, not a phase in a continual growth process. Such a thing has never happened before. It is absolutely contrary to the laws of liturgical growth, and it has resulted in the nonsensical notion that Trent and Pius V has ‘produced’ a Missal four hundred years ago. The Catholic liturgy was thus reduced to the level of a mere product of modern times (J. RATZINGER, *Feast of Faith: Approaches to a Theology of the Liturgy*, trans. G. HARRISON, San Francisco, Ignatius Press, 1986, pp.81-86) Even the authority of the Roman Pontiff is limited in this regard. “[I]he first Vatican Council had in no way defined the pope as an absolute monarch. On the contrary, it presented him as the guarantor of obedience to the revealed Word. The pope’s authority is bound to the Tradition of faith, and that also applies to the liturgy. It is not ‘manufactured’ by the authorities. Even the pope can only be a humble servant to its lawful development and abiding integrity and identity” (J. RATZINGER, *The Spirit of the Liturgy*, trans. J. SAWARD, San Francisco, Ignatius Press, 2000, p. 166). See also GAMBER, *The Reform of the Roman Liturgy*, pp. 27-39.

GENERAL CONCLUSION

Just as the liturgical reforms following the Second Vatican Council were met with a variety of responses, ranging from outright rejection to enthusiastic praise, the latest provisions for use of the 1962 *Missale Romanum* have provoked a similar response.¹ Of course, those attached to earlier liturgical forms feel vindicated not only at the prospect of a wider availability of Masses celebrated according to the *forma extraordinaria* but at the possibilities for the “mutual enrichment” of the *forma ordinaria* as well. Conversely, those who enthusiastically embrace the post-conciliar liturgical reforms are fearful that *Summorum Pontificum* “could undermine the liturgical reforms that undergird the spiritual and theological developments of the Second Vatican Council.”² In many respects, then, *Summorum Pontificum* has reinvigorated a decades-old debate concerning liturgical practice and, more especially, the theological appropriation of the Second Vatican Council itself.³

The appropriateness of permitting broader availability of the 1962 *Missale Romanum*, and distinguishing the Roman rite into two forms, has been called into question for a variety of reasons. R. Weakland, for instance, had already accused the earlier provisions for use of the 1962 *Missale Romanum* of fostering “a truly ‘cafeteria’ period in Catholicism, in which one can

¹ See J.L. ALLEN, “Opinion Divided on Mass Decision,” in *National Catholic Reporter*, 43 (20 July 2007), p. 5

² “Full Participation Before All Else,” in *National Catholic Reporter*, 43 (20 July 2007), p. 24. See also “Liturgical Reform No Going Back,” in *National Catholic Reporter*, 44 (28 December 2007), p. 24

³ The faithful would do well to heed the advice of Woestman: “Those attached to the extraordinary form are called to respect and love the ordinary form, which is the mode of celebrating the Eucharist by most of the Christian Faithful. They should not gloat in the new norms as a personal victory, but embrace them as a means to achieve the unity willed by Jesus. Those regretting the extension of the norms permitting the celebration of the extraordinary form are called to respect those attached to the extraordinary form and not seem them as a capitulation to the whims of persons living in the past, who have not accepted Vatican II” (W.H. WOESTMAN, “*Summorum Pontificum* and Ecclesial Unity” in V.G. D’SOUZA [ed.], *In the Service of Truth and Justice: Festschrift in Honour of Prof. Augustine Mendonça Professor Emeritus*, Bangalore, St. Peter’s Pontifical Institute, 2008, p. 465).

pick and choose from Vatican Council II what one likes and what one dislikes.”⁴ He argued that broader permission to use earlier liturgical forms only serves to undermine the Second Vatican Council itself:

Many of us bishops, acceding to that pastoral judgement of Pope John Paul II, have granted permission for Masses, even on a regular basis, following the Tridentine usage. The faithful who attend are most grateful. But the liturgical climate in the nation has changed totally. An encouraging signal was sent out to those groups who wanted to reject all or most of the liturgical reforms of the Vatican Council II. They have increased their efforts to undermine and reverse the liturgical reforms of that council and especially the implementation approved by Pope Paul VI immediately following the council [. . .] As well-meaning as that decision to broaden the Tridentine usage was, one cannot emphasize enough how devastating the results have been. Not only was the liturgical renewal called into question; the impression was created that, with sufficient protest, the whole of Vatican Council II could be reversed.⁵

Although *Summorum Pontificum* no longer explicitly requires unequivocal, even public evidence, that those who celebrate Mass according to the 1962 *Missale Romanum* “have no ties to those who call into doubt the lawful force and doctrinal soundness of the Roman Missal promulgated in 1970 by Pope Paul VI,”⁶ as required by *Quattuor abhinc annos*, Benedict XVI’s accompanying letter to bishops acknowledges that, “in order to experience full communion, the priests of the communities adhering to the former usage cannot as a matter of principle exclude celebrating according to the new books.”⁷ As well, following the remissions of excommunication of the four bishops illicitly ordained by Mgr Lefebvre, the Holy See confirmed that “a full recognition of the Second Vatican Council and the magisterium of Popes John XXIII, Paul VI, John Paul I, John Paul II and Benedict XVI

⁴ R.G. WEAKLAND, “Liturgical Renewal: Two Latin Rites?” in *America*, 176, n. 20 (7-14 June 1997), p. 15

⁵ *Ibid.*

⁶ CONGREGATION FOR DIVINE WORSHIP, *Quattuor abhinc annos*, in *Communicationes*, 17 (1985), pp. 3-4, English translation in *CLD*, 11, p. 4.

⁷ BENEDICT XVI, letter to bishops, p. 134.

himself is an indispensable condition for any future recognition of the Society of St. Pius X.”⁸

A similar criticism has been expressed by J. Baldwin, who suggests that *Summorum Pontificum* is a classic example of a post-modern quest for experience, a phenomenon “which will attract the curious for a while, but interest will quickly wane.”⁹ Any popularity the former rites may achieve is largely “a futile attempt to recreate the past.”¹⁰ He suggests that “[o]ur attention and energy should instead be on the reverent and worshipful celebration of the liturgy we have received in the Missal of Paul VI.”¹¹ Admittedly, there is a good deal of irony in how *Summorum Pontificum* permits a greater degree of liturgical diversity in so far as this is often the criticism leveled against post-conciliar liturgical forms by those opposed to *Sacrosanctum concilium* or, at the very least, the manner in which it was implemented.

For others, broader use of the pre-conciliar liturgy is yet another example of post-modern consumerism, “a relentless commodification of everyday life” that seeks “to accumulate more and more ‘stuff’, teamed with an aggressive desire to replicate the past.”¹²

J. Miller argues that

[n]eotraditionalist forms of Catholicism that repudiate the Second Vatican Council seem almost perfect illustrations of commodified nostalgia. Rejecting the council’s attempt to engage modernity critically, they dwell in the Catholicism of the recent past, revering its practices, beliefs, décor, and costume. Such nostalgic retrievals inevitably idealize the past by abstracting it from the particularities that created it and sunder it from any organic relation to the present [...] Inevitably, such ‘traditionalist retrievals are not only innovative but also deeply contemporary. Fundamentalism is a thoroughly modern phenomenon. Traditionalism is deeply marked by the contemporary in that it easily conforms to the logic of nostalgia [] Like souvenirs brought

⁸ SECRETARIAT OF STATE, Note concerning the remitting of excommunication of SSPX bishops, 4 February 2009, n. 2, in *L’Osservatore Romano*, vol. 149, no. 29 (5 February 2009), p. 1, English translation in *Origins*, 38 (2008-2009), p. 570.

⁹ BALDOVIN, *Reforming the Liturgy*, p. 132

¹⁰ J.F. BALDOVIN, “Reflections on *Summorum Pontificum*,” in *Worship*, 83 (2009), p. 112 (=BALDOVIN, “Reflections on *Summorum Pontificum*”).

¹¹ *Ibid.*

¹² MITCHELL, “*Summorum Pontificum*,” pp. 562-563.

home from distant lands, the religion of the past is excised from its cultural political context and used to decorate the everyday life of our own time.¹³

N. Mitchell observes that the retrieval of earlier liturgical forms “is not a gospel *critique* of our consumerist culture and its values, but an *affirmation* of them:”

Eagerness to reassert *l'ancien regime* falls victim to the very values it claims to criticize, values derived from a ‘shop ‘til you drop’ consumerism. Nostalgic consumers rifle through internet sites looking for preconiliar prayerbooks, paraments, and paraphernalia [...] Nostalgia of this kind is inherently selective, exclusive, and elitist. Only those who have ‘means’ and ‘access’ can truly afford to be nostalgic – because they alone have the leisure and the purchasing power to act on their impulses¹⁴

Attachment to earlier liturgical forms, then, “has more to do with postmodern consumerism than with the building up of the Body of Christ.”¹⁵

While these critiques are compelling, and attachment to earlier liturgical forms can be attributed to a variety of motivations – some more worthy of consideration than others – such sentiments should not be effortlessly dismissed. The purpose of this study, however, was not to serve as a defense for or against the continued use of former liturgical books or to address every conceivable objection to *Summorum Pontificum*. Instead, this dissertation has attempted to provide a canonical analysis of these provisions and to identify, where necessary, the problematic issues raised by the document. To achieve this objective, the dissertation began by providing the appropriate context in which to situate the latest provisions for use of the 1962 *Missale Romanum* and other earlier liturgical books, both antecedent (chapter one) and subsequent (chapter two) to the Second Vatican Council. Opposition to the post-conciliar liturgical reform was identified and categorized for the purpose of understanding the proximate motivation of the *motu proprio*, just as earlier provisions were analyzed so to appreciate the unique characteristics of *Summorum Pontificum*

¹³ V.J. MILLER, *Consuming Religion: Christian Faith and Practice in a Consumer Culture*, New York, Continuum, 2005, pp. 80-81.

¹⁴ MITCHELL, “Summorum Pontificum,” p. 563.

¹⁵ BALDOVIN, “Reflection on *Summorum Pontificum*,” p. 111.

itself (chapter three). The final two chapters were dedicated to a consideration of the provisions of *Summorum Pontificum* (chapter four), along with a resolution of a variety of disputed matters, such as the observance of abrogated liturgical discipline, and the incorporation of various post-conciliar legislative developments into earlier liturgical forms (chapter five).

For the first time since the promulgation of the revised *Missale Romanum* in 1970, the 1962 *Missale Romanum* can be utilized by all priests without the need to obtain additional permission from either the Holy See or the diocesan bishop. No longer is the celebration of the Mass according to the 1962 *Missale Romanum* permitted in virtue of a so-called indult granted to a select few but a right, enshrined in the law, which can be properly vindicated under appropriate conditions. This is a remarkable departure from the earlier *praxis curiae* but not without consequences. Permitting widespread use of liturgical books promulgated before the Second Council in a juridic context deliberately informed by the teachings of this same Council results in juridic discrepancies which require careful consideration in light of the principal motivation of Benedict XVI, the particularities of the *forma extraordinaria* and, most especially, the *ius vigenis*.

A number of general conclusions can be drawn from the present study, several of which are presented in the form of modest recommendations for further consideration by the Holy See. Firstly, appropriate formation is required. Although *Summorum Pontificum* permits priests the use of the 1962 *Missale Romanum*, they must be qualified to do so (*SP*, art. 5, §4). This requires not only a basic proficiency in Latin, but also a familiarity with the rubrics of the earlier liturgical books, so as to ensure a dignified and reverent celebration of the liturgy. Since this is not found in all quarters – a fact acknowledged by Benedict XVI himself – appropriate liturgical formation must be undertaken before celebrating Mass

according to the 1962 *Missale Romanum*, especially public celebrations involving the participation of the Christian faithful. Where interest is expressed and pastoral circumstances recommend, seminary curricula should include liturgical formation in both forms of the Roman rite, including a study of the Latin language (cf. *CIC/83*, c. 249). Appropriate ways in which the active participation of the faithful may be effectively promoted in the *forma extraordinaria* should be included in this formation.

Although the diocesan bishop is no longer free to withhold permission for use of the 1962 *Missale Romanum*, his involvement is of paramount importance and remains a matter of obligation. Pastors are to ensure that the welfare of those attached to earlier liturgical forms “harmonizes with the ordinary pastoral care of the parish, under the guidance of the diocesan bishop in accordance with Canon 392, avoiding discord and favoring the unity of the whole church” (*SP*, art. 5, §). This is a difficult task and bishops, as “the high priests, the principal dispensers of the mysteries of God, and the directors, promoters, and guardians of the entire liturgical life in the church entrusted to them” (*CIC/83*, c. 835, §1) have an important role in this regard. Should problems arise that cannot be resolved by the parish priest, “the local ordinary will always be able to intervene in full harmony, however, with all that has been laid down by the new norms of the *motu proprio*.”¹⁶ Ensuring that the provisions of *Summorum Pontificum* are observed, the diocesan bishop is strongly encouraged to satisfy requests for celebrations of Mass according to the rite of the 1962 *Missale Romanum* (*SP*, art. 7). If he is unable to do this, or is willing but unable, he is to request the assistance of the Pontifical Commission *Ecclesia Dei* (*SP*, art. 8). Also, diocesan bishops are invited to indicate to the Holy See their experiences concerning *Summorum Pontificum*.¹⁷ A complete and candid

¹⁶ BENEDICT XVI, Letter to bishops, p. 134

¹⁷ *Ibid*

assessment of these provisions will enable the Holy See to identify deficiencies, doubts of law, and opportunities for further improvement. Compliance with *Summorum Pontificum*, then, necessarily requires the cooperative assistance and oversight of diocesan bishops.

Summorum Pontificum carefully distinguishes the Masses celebrated *sine populo* (*SP*, art. 2) and those celebrated *cum populo* in parishes at the request of a stable group of the faithful who adhere to earlier liturgical forms (*SP*, art. 5, §1). Although priests are free to use, on their own initiative, the 1962 *Missale Romanum* in celebrations *sine populo*, the *motu proprio* suggests that for public celebrations with the faithful, the request for such celebrations must come from a stable group of the faithful. To suggest otherwise would render the distinction carefully maintained in *Summorum Pontificum* rather meaningless. Yet, one can reasonably expect that some priests, especially partial to earlier liturgical forms, will want to foster such liturgical devotion by promoting such celebrations in the parishes entrusted to their care, in much the same way that some priests encourage charismatic styles of worship or particular Marian devotions according to their own preferences.¹⁸ The liturgical proclivities of parishioners will largely determine the success of such efforts, yet resistance is not unexpected. In such cases, the diocesan bishop can intervene, ensuring that the norms of the *motu proprio* are faithfully observed.

Of particular importance throughout this study has been the identification of potential areas of conflict between the disciplinary laws contained in the earlier liturgical books and those contained both within and outside the 1983 Code of Canon Law. As the present *ius vigens* is a juridical expression of the Second Vatican Council's doctrine and

¹⁸ A private reply from the Pontifical Commission *Ecclesia Dei*, Prot N. 13/2007, 20 January 2010, indicates that a priest may schedule a public Mass in the *forma extraordinaria* on his own accord. This correspondence, between a priest in Poland and *Ecclesia Dei*, can be found at <http://www.newliturgicalmovement.org/2010/02/important-clarifications-from-ecclesia.html> (23 February 2010). An interpretation in the form of an administrative act in a particular matter such as this, however, "does not have the force of law and only binds the persons for whom and affects the matters for which it was given" (*CIC/83*, c. 16, §3).

ecclesiology, continued use of pre-conciliar liturgical books inevitably results in discrepancies, fostering juridic uncertainty as to which laws apply to celebrations of the *forma extraordinaria*. Of course, these uncertainties have been further confounded by *Summorum Pontificum*'s curious claim that the 1962 *Missale Romanum* was never abrogated (*SP*, art. 1). The use of female altar servers, concelebration and communion under both species, for instance, are matters which have undergone a significant legislative evolution. If it is the intention of the legislator to exclude these practices from celebrations of the *forma extraordinaria*, further clarification is required. In the meantime, we have recommended that the present *ius vogens* must always serve as the basis for resolving any disputed disciplinary matter in pastoral practice. Likewise, the *praenotanda* of earlier liturgical books require revision so as to conform to the present law. This ensures legislative uniformity while successfully protecting the *forma extraordinaria* from the arbitrary imposition of many of the most contentious legislative developments.

Finally, Benedict XVI indicated two ways in which the 1962 *Missale Romanum* may be adapted in the future, namely, through the inclusion of new prefaces and saints canonized since 1962.¹⁹ This is not an exhaustive list; Benedict XVI has already effected one adaption in the form of a new Good Friday prayer for the Jews. In many respects, as Reid points out, 1962 is an arbitrary date: "not everything that happened before it was perfect, and all that followed is not *a priori* to be excluded."²⁰ Perhaps the *Ordo Missae* promulgated in 1965 will serve as an acceptable model for further adaptation in light of a re-evaluation of the principal objectives of *Sacrosanctum concilium*.²¹ The determination of the various possibilities in this

¹⁹ BENEDICT XVI, Letter to bishops, p 133

²⁰ REID, *The Ceremonies of the Roman Rite Described*, p 19

²¹ Benedict XVI has encouraged all the faithful to undertake a reconsideration of *Sacrosanctum concilium* "The Mystery of Faith' this we proclaim at every Mass I would like everyone to make a commitment to study

regard, however, belongs to the Holy See. An instruction, rumoured for some time, is anticipated to resolve a number of the disputed matters, while further adaptations of the 1962 *Missale Romanum* will occur by means of various legislative measures. The requested reports from bishops concerning their experiences of *Summorum Pontificum* after three years will likely provide helpful material for the preparation of any potential instruction or further legislative changes.²²

The legislator, motivated by an obligation “to make every effort to make it possible for all those who truly desire unity to remain in that unity or to attain it anew,” and aware that “not enough was done by the Church’s leaders to maintain or regain reconciliation and unity,” promulgated new ecclesiastical legislation for use of pre-conciliar liturgical books so as “to preserve the riches that have developed in the Church’s faith and prayer, and to give them their proper place.”²³ As the *forma extraordinaria* of the Roman rite, the 1962 *Missale Romanum* “must be given due honor for its venerable and ancient usage” (*SP*, art. 1), for “what earlier generations held as sacred, remains sacred and great for us too.”²⁴ Informed by this and sharing the legislator’s concern for ecclesial unity, the present study has sought to contribute, in some small way, to a greater understanding of the legislative provisions of *Summorum Pontificum*. While challenges have been identified and additional difficulties are anticipated, these obstacles are not insurmountable, for the Eucharist – whether celebrated according to the *forma ordinaria* or the *forma extraordinaria* – remains what it has always been:

this great mystery, especially by revisiting and exploring, individually and in groups, the Council’s text on the Liturgy, *Sacrosanctum concilium*, so as to bear witness courageously to the mystery. In this way, each person will arrive at a better grasp of the meaning of every aspect of the Eucharist, understanding its depth and living it with greater intensity. Every sentence, every gesture has its own meaning and conceals a mystery” (BENEDICT XVI, Televised homily at the concluding Mass of the 49th International Eucharistic Congress in Quebec City, 22 June 2008, in *AAS*, 100 [2008], p. 486).

²² BENEDICT XVI, Letter to bishops, p. 134.

²³ *Ibid.*

²⁴ *Ibid.*

“a sacrament of love, a sign of unity, a bond of charity, a paschal banquet in which Christ is consumed, the mind is filled with grace, and a pledge of future glory is given to us” (*SC*, n. 47).

APPENDIX I

Apostolic Letter *motu proprio Summorum Pontificum*

Summorum Pontificum cura ad hoc tempus usque semper fuit, ut Christi Ecclesia Divinae Maiestati cultum dignum offerret, «ad laudem et gloriam nominis Sui» et «ad utilitatem totius Ecclesiae Suae sanctae».

Ab immemorabili tempore sicut etiam in futurum, principium servandum est «iuxta quod unaquaeque Ecclesia particularis concordare debet cum universali Ecclesia non solum quoad fidei doctrinam et signa sacramentalia, sed etiam quoad usus universaliter acceptos ab apostolica et continua traditione, qui servandi sunt non solum ut errores vitentur, verum etiam ad fidei integritatem tradendam, quia Ecclesiae lex orandi eius legi credendi respondet».¹

Inter Pontífices qui talem debitam curam adhibuerunt, nomen excellit sancti Gregorii Magni, qui tam fidem catholicam quam thesauros cultus ac culturae a Romanis in saeculis praecedentibus cumulos novis Europae populis transmittendos curavit. Sacrae Liturgiae tam Missae Sacrificii quam Officii Divini formam, uti in Urbe celebrabatur, definiri conservarique iussit. Monachos quoque et moniales maxime fovit, qui sub Regula sancti Benedicti militantes, ubique simul cum Evangelii annuntiatione illam quoque saluberrimam Regulae sententiam vita sua illustrarunt, «ut operi Dei nihil praeponatur» (cap. 43). Tali modo sacra liturgia secundum morem Romanum non solum fidem et pietatem sed et culturam multarum gentium fecundavit. Constat utique liturgiam latinam variis suis formis Ecclesiae in omnibus aetatis christianae saeculis permultos Sanctos in vita spirituali stimulasse atque tot populos in religionis virtute

Up to our own times it has been the constant concern of supreme pontiffs to ensure that the church of Christ offers a worthy ritual to the Divine Majesty, “to the praise and glory of his name,” and “to the benefit of all his holy church.”

Since time immemorial it has been necessary - as it is also for the future - to maintain the principle according to which “each particular church must concur with the universal church, not only as regards the doctrine of the faith and the sacramental signs but also as regards the usages universally accepted by uninterrupted apostolic tradition, which must be observed not only to avoid errors but also to transmit the integrity of the faith, because the church's law of prayer corresponds to her law of faith.”

Among the pontiffs who showed that requisite concern particularly outstanding is the name of St. Gregory the Great, who made every effort to ensure that the new peoples of Europe received both the Catholic faith and the treasures of worship and culture that had been accumulated by the Romans in preceding centuries. He commanded that the form of the sacred liturgy as celebrated in Rome (concerning both the sacrifice of Mass and the Divine Office) be conserved. He took great concern to ensure the dissemination of monks and nuns who, following the Rule of St. Benedict, together with the announcement of the Gospel, illustrated with their lives the wise provision of their rule that “nothing should be placed before the work of God” (Ch. 43). In this way the sacred liturgy celebrated according to the Roman use enriched not only the faith and piety but also the culture of many peoples. It is known, in

¹ *Institutio generalis Missalis Romani*, Editio tertia, 2002, 397

roborasse ac eorundem pietatem fecundasse.

Ut autem Sacra Liturgia hoc munus efficacius expleret, plures alii Romani Pontifices decursu saeculorum peculiarem sollicitudinem impenderunt, inter quos eminet Sanctus Pius V, qui magno cum studio pastorali, Concilio Tridentino exhortante, totum Ecclesiae cultum innovavit, librorum liturgicorum emendatorum et «ad normam Patrum instauratorum» editionem curavit eosque Ecclesiae Latinae usui dedit.

Inter Ritus Romani libros liturgicos patet eminere Missale Romanum, quod in Romana urbe succrevit, atque succedentibus saeculis gradatim formas assumpsit, quae cum illa in generationibus recentioribus vigente magnam habent similitudinem

«Quod idem omnino propositum tempore progrediente Pontifices Romani sunt persecuti, cum novas ad aetates accommodaverunt aut ritus librosque liturgicos determinaverunt, ac deinde cum ineunte hoc nostro saeculo ampliores iam complexi sunt redintegrationem».² Sic vero egerunt Decessores nostri Clemens VIII, Urbanus VIII, sanctus Pius X,³ Benedictus XV, Pius XII et beatus Ioannes XXIII.

Recentioribus autem temporibus, Concilium Vaticanum II desiderium expressit, ut debita observantia et reverentia erga cultum divinum denuo instauraretur ac necessitatibus

fact, that the Latin liturgy of the church in its various forms in each century of the Christian era has been a spur to the spiritual life of many saints, has reinforced many peoples in the virtue of religion and fecundated their piety.

Many other Roman pontiffs in the course of the centuries showed particular solicitude in ensuring that the sacred liturgy accomplished this task more effectively. Outstanding among them is St. Pius V who, sustained by great pastoral zeal and following the exhortations of the Council of Trent, renewed the entire liturgy of the church, oversaw the publication of liturgical books amended and “renewed in accordance with the norms of the fathers” and provided them for the use of the Latin Church.

One of the liturgical books of the Roman rite is the Roman Missal, which developed in the city of Rome and with the passing of the centuries little by little took forms very similar to that it has had in recent times.

“It was toward this same goal that succeeding Roman pontiffs directed their energies during the subsequent centuries in order to ensure that the rites and liturgical books were brought up to date and when necessary clarified. From the beginning of this century they undertook a more general reform.” Thus our predecessors Clement VIII, Urban VIII, St. Pius X, Benedict XV, Pius XII and Blessed John XXIII all played a part.

In more recent times Vatican Council II expressed a desire that the respectful reverence due to divine worship should be renewed and adapted to the needs of our

² IOANNES PAULUS PP II, *Litt ap Vicesimus quintus annus* (4 Decembris 1988), 3 *AAS* 81 (1989), 899

³ *Ibid.*

nostrae aetatis aptaretur Quo desiderio motus, Decessor noster Summus Pontifex Paulus VI libros liturgicos instauratos et partim innovatos anno 1970 Ecclesiae latinae approbavit; qui ubique terrarum permultas in linguas vulgares conversi, ab Episcopis atque a sacerdotibus et fidelibus libenter recepti sunt.

Ioannes Paulus II, tertiam editionem typicam Missalis Romani recognovit. Sic Romani Pontifices operati sunt ut «hoc quasi aedificium liturgicum [...] rursus, dignitate splendidum et concinnitate» appareret.⁴

Aliquibus autem in regionibus haud pauci fideles antecedentibus formis liturgicis, quae eorum culturam et spiritum tam profunde imbuerant, tanto amore et affectu adhaeserunt et adhaerere pergunt, ut Summus Pontifex Ioannes Paulus II, horum fidelium pastoralis cura motus, anno 1984 speciali Indulto «Quattuor abhinc annos», a Congregatione pro Cultu Divino exarato, facultatem concessit utendi Missali Romano a Ioanne XXIII anno 1962 edito; anno autem 1988 Ioannes Paulus II iterum, litteris Apostolicis «Ecclesia Dei» Motu proprio datis, Episcopos exhortatus est ut talem facultatem late et generose in favorem omnium fidelium id petentium adhiberent.

Instantibus precibus horum fidelium iam a Praedecessore Nostro Ioanne Paulo II diu perpensis, auditis etiam a Nobis Patribus Cardinalibus in Concistorio die XXIII mensis martii anni 2006 habito, omnibus mature perpensis, invocato Spiritu Sancto et Dei freti auxilio, praesentibus Litteris Apostolicis DECERNIMUS quae sequuntur:

Art. 1. Missale Romanum a Paulo VI

time. Moved by this desire, our predecessor the supreme pontiff Paul VI approved in 1970 reformed and partly renewed liturgical books for the Latin Church. These, translated into the various languages of the world, were willingly accepted by bishops, priests and faithful.

John Paul II amended the third typical edition of the Roman Missal. Thus Roman pontiffs have operated to ensure that “this kind of liturgical edifice ... should again appear resplendent for its dignity and harmony.”

But in some regions no small numbers of faithful adhered and continue to adhere with great love and affection to the earlier liturgical forms. These had so deeply marked their culture and their spirit that in 1984 the supreme pontiff John Paul II, moved by a concern for the pastoral care of these faithful, with the special indult *Quattuor Abhinc Annis* issued by the Congregation for Divine Worship granted permission to use the Roman Missal published by Blessed John XXIII in the year 1962. Later, in the year 1988, John Paul II with the apostolic letter given as *motu proprio Ecclesia Dei* exhorted bishops to make generous use of this power in favor of all the faithful who so desired.

Following the insistent prayers of these faithful, long deliberated upon by our predecessor John Paul II, and after having listened to the views of the cardinal fathers of the consistory of March 22, 2006, having reflected deeply upon all aspects of the question, invoked the Holy Spirit and trusting in the help of God, with these apostolic letters we establish the following:

Article 1. The Roman Missal promulgated by

⁴ S PIUS PP X, Litt ap Motu proprio datae *Abhinc duos annos* (23 Octobris 1913) *AAS* 5 (1913), 449-450, cfr IOANNES PAULUS II, Litt ap *Vicesimus quintus annus* (4 Decembris 1988), 3 *AAS* 81 (1989), 899

promulgatum ordinaria expressio «Legis orandi» Ecclesiae catholicae ritus latini est. Missale autem Romanum a S Pio V promulgatum et a B Ioanne XXIII denuo editum habeatur uti extraordinaria expressio eiusdem «Legis orandi» Ecclesiae et ob venerabilem et antiquum eius usum debito gaudeat honore. Hae duae expressiones «legis orandi» Ecclesiae, minime vero inducent in divisionem «legis credendi» Ecclesiae; sunt enim duo usus unici ritus romani.

Paul VI is the ordinary expression of the *lex orandi* (law of prayer) of the Catholic Church of the Latin rite. Nonetheless, the Roman Missal promulgated by St Pius V and reissued by Blessed John XXIII is to be considered as an extraordinary expression of that same *lex orandi* and must be given due honor for its venerable and ancient usage. These two expressions of the church's *lex orandi* will in no any way lead to a division in the church's *lex credendi* (law of belief). They are in fact two usages of the one Roman rite

Proinde Missae Sacrificium, iuxta editionem typicam Missalis Romani a B. Ioanne XXIII anno 1962 promulgatam et numquam abrogatam, uti formam extraordinariam Liturgiae Ecclesiae, celebrare licet. Conditiones vero a documentis antecedentibus «Quattuor abhinc annos» et «Ecclesia Dei» pro usu huius Missalis statutae, substituuntur ut sequitur.

It is therefore permissible to celebrate the sacrifice of the Mass following the typical edition of the Roman Missal promulgated by Blessed John XXIII in 1962 and never abrogated as an extraordinary form of the liturgy of the church. The conditions for the use of this missal as laid down by earlier documents *Quattuor Abhinc Annos* and *Ecclesia Dei* are substituted as follows.

Art. 2. In Missis sine populo celebratis, quilibet sacerdos catholicus ritus latini, sive saecularis sive religiosus, uti potest aut Missali Romano a beato Papa Ioanne XXIII anno 1962 edito, aut Missali Romano a Summo Pontifice Paulo VI anno 1970 promulgato, et quidem qualibet die, excepto Triduo Sacro Ad talem celebrationem secundum unum alterumve Missale, sacerdos nulla eget licentia, nec Sedis Apostolicae nec Ordinarii sui

Article 2. In Masses celebrated without the people, [any] Catholic priest of the Latin rite, whether secular or [religious], may use the Roman Missal published by Blessed Pope John XXIII in 1962 or the Roman Missal promulgated by Pope Paul VI in 1970, and may do so on any day, with the exception of the Easter triduum. For such celebrations, with either one missal or the other, the priest has no need for permission from the Apostolic See or from his ordinary.

Art. 3. Si communitates Institutorum vitae consecratae atque Societatum vitae apostolicae iuris sive pontifici sive dioecesani quae in celebratione conventuali seu «communitatis» in oratoris propriis celebrationem sanctae Missae iuxta editionem Missalis Romani anno 1962 promulgatam habere cupiunt, id eis licet. Si singula communitas aut totum Institutum vel Societas tales celebrationes saepe vel habitualiter vel permanentemente perficere vult,

Article 3. Communities of institutes of consecrated life and of societies of apostolic life, of either pontifical or diocesan right, wishing to celebrate Mass in accordance with the edition of the Roman Missal promulgated in 1962, for conventual or “community” celebration in their oratories, may do so. If an individual community or an entire institute or society wishes to undertake such celebrations often, habitually or permanently, the decision must be taken by the [major superiors] in accordance with

res a Superioribus maioribus ad normam iuris et secundum leges et statuta particularia decernatur.

Art. 4. Ad celebrationes sanctae Missae de quibus supra in art. 2 admitti possunt, servatis de iure servandis, etiam christifideles qui sua sponte id petunt.

Art. 5, § 1. In paroecis, ubi coetus fidelium traditioni liturgicae antecedenti adhaerentium stabiliter existit, parochus eorum petitiones ad celebrandam sanctam Missam iuxta ritum Missalis Romani anno 1962 editi, libenter suscipiat. Ipse videat ut harmonice concordetur bonum horum fidelium cum ordinaria paroeciae pastoralis cura, sub Episcopi regimine ad normam canonis 392, discordiam vitando et totius Ecclesiae unitatem fovendo.

§ 2. Celebratio secundum Missale B. Ioannis XXIII locum habere potest diebus ferialibus; dominicis autem et festis una etiam celebratio huiusmodi fieri potest.

§ 3. Fidelibus seu sacerdotibus id petentibus, parochus celebrationes, hac in forma extraordinaria, permittat etiam in adiunctis peculiaribus, uti sunt matrimonia, exsequiae aut celebrationes occasionales, verbi gratia peregrinationes.

§ 4. Sacerdotes Missali B. Ioannis XXIII utentes, idonei esse debent ac iure non impediti.

§ 5. In ecclesiis, quae non sunt nec paroeciales nec conventuales, Rectoris ecclesiae est concedere licentiam de qua supra.

Art. 6. In Missis iuxta Missale B. Ioannis XXIII celebratis cum populo, Lectiones proclamari possunt etiam lingua vernacula, utendo editionibus ab Apostolica Sede

the law and following their own [particular laws] and statutes.

Article 4. Celebrations of Mass as mentioned above in Article 2 may - observing all the norms of law - also be attended by faithful who of their own free will ask to be admitted.

Article 5, § 1. In parishes where there is a stable group of faithful who adhere to the earlier liturgical tradition, the pastor should willingly accept their requests to celebrate the Mass according to the rite of the Roman Missal published in 1962 and ensure that the welfare of these faithful harmonizes with the ordinary pastoral care of the parish, under the guidance of the bishop in accordance with Canon 392, avoiding discord and favoring the unity of the whole church.

§ 2. Celebration in accordance with the missal of Blessed John XXIII may take place on working days; while on Sundays and feast days one such celebration may also be held.

§ 3. For faithful and priests who request it, the pastor should also allow celebrations in this extraordinary form for special circumstances such as marriages, funerals or occasional celebrations, e.g. pilgrimages.

§ 4. Priests who use the missal of Blessed John XXIII must be qualified to do so and not juridically impeded.

§ 5. In churches that are not parish or conventual churches, it is the duty of the rector of the church to grant the above permission.

Article 6. In Masses celebrated in the presence of the people in accordance with the missal of Blessed John XXIII, the readings may be given in the vernacular,

recognitis.

Art. 7 Ubi aliquis coetus fidelium laicorum, de quo in art. 5 § 1 petita a parochi non obtinuerit, de re certiore faciat Episcopum dioecesanum. Episcopus enixe rogatur ut eorum optatum exaudiat. Si ille ad huiusmodi celebrationem providere non vult res ad Pontificiam Commissionem “Ecclesia Dei” referatur.

Art. 8. Episcopus, qui vult providere huiusmodi petitionibus christifidelium laicorum, sed ob varias causas impeditur, rem Pontificiae Commissioni “Ecclesia Dei” committere potest, quae ei consilium et auxilium dabit

Art. 9, § 1. Parochus item, omnibus bene perpensis, licentiam concedere potest utendi rituali antiquiore in administrandis sacramentis Baptismatis, Matrimonii, Poenitentiae et Unctionis Infirmorum, bono animarum id suadente.

§ 2. Ordinarius autem facultas conceditur celebrandi Confirmationis sacramentum utendo Pontificali Romano antiquo, bono animarum id suadente.

§ 3. Fas est clericis in sacris constitutis uti etiam Breviario Romano a B. Ioanne XXIII anno 1962 promulgato.

Art 10. Fas est Ordinario loci, si opportunum iudicaverit, paroeciam personalem ad normam canonis 518 pro celebrationibus iuxta formam antiquiorem ritus romani erigere aut rectorem vel cappellanum nominare, servatis de iure servandis.

using editions recognized by the Apostolic See.

Article 7 If a group of lay faithful, as mentioned in Article 5, § 1, has not obtained satisfaction to their requests from the pastor, they should inform the diocesan bishop. The bishop is strongly requested to satisfy their wishes. If he [does not want to] arrange for such celebration to take place, the matter should be referred to the Pontifical Commission Ecclesia Dei.

Article 8 A bishop desirous of satisfying such requests but who for various reasons is unable to do so may refer the problem to the commission Ecclesia Dei to obtain counsel and assistance.

Article 9, § 1. The pastor, having attentively examined all aspects, may also grant permission to use the earlier ritual for the administration of the sacraments of baptism, marriage, penance and the anointing of the sick if the good of souls would seem to require it

§ 2. Ordinaries are given the [faculty] to celebrate the sacrament of confirmation using the earlier Roman Pontifical if the good of souls would seem to require it.

§ 3. Clerics [...] *in sacris constitutis* [are allowed to] use the Roman breviary promulgated by Blessed John XXIII in 1962.

Article 10. The [local ordinary], if he feels it [opportune], [is allowed to] erect a personal parish in accordance with Canon 518 for celebrations following the ancient form of the Roman rite or appoint a [rector or] chaplain, while observing all the norms of law.

Art. 11. Pontificia Commissio «Ecclesia Dei» a Ioanne Paulo II anno 1988 erecta,⁵ munus suum adimplere pergit.

Quae Commissio formam, officia et normas agendi habeat, quae Romanus Pontifex ipsi attribuere voluerit.

Art. 12. Eadem Commissio, ultra facultates quibus iam gaudet, auctoritatem Sanctae Sedis exercebit, vigilando de observantia et applicatione harum dispositionum

Quaecumque vero a Nobis hisce Litteris Apostolicis Motu proprio datis decreta sunt, ea omnia firma ac rata esse et a die decima quarta Septembris huius anni, in festo Exaltationis Sanctae Crucis, servari iubemus, contrarius quibuslibet rebus non obstantibus.

Datum Romae, apud Sanctum Petrum, die septima mensis Iulii, anno Domini MMVII, Pontificatus Nostri tertio.

BENEDICTUS PP. XVI

AAS, 99 (2007), pp 777-781

Article 11 The Pontifical Commission Ecclesia Dei, erected by John Paul II in 1988, continues to exercise its function.

Said commission will have the form, duties and norms that the Roman pontiff wishes to assign it.

Article 12. This commission, apart from the powers it enjoys, will exercise the authority of the Holy See, supervising the observance and application of these dispositions.

We order that everything we have established with these apostolic letters issued as *motu proprio* be considered as “established and decreed,” and to be observed from Sept. 14 of this year, feast of the Exaltation of the Cross, [all things to the contrary notwithstanding].

From Rome, at St. Peter's, July 7, 2007, third year of our pontificate.

BENEDICTUS PP. XVI

Origins, 37(2007-2008), pp 129-132 Minor changes have been made by the author in light of the promulgated Latin text, these are indicated in square brackets

⁵ IOANNES PAULUS PP II, Litt ap Motu proprio datae *Ecclesia Dei* (2 Iulii 1988), 6 *AAS* 80 (1988), 1498

APPENDIX II

Letter Accompanying the *motu proprio Summorum Pontificum*

Cari Fratelli nell'Episcopato,

con grande fiducia e speranza metto nelle vostre mani di Pastori il testo di una nuova Lettera Apostolica «*Motu Proprio data*» sull'uso della liturgia romana anteriore alla riforma effettuata nel 1970. Il documento è frutto di lunghe riflessioni, di molteplici consultazioni e di preghiera

Notizie e giudizi fatti senza sufficiente informazione hanno creato non poca confusione. Ci sono reazioni molto divergenti tra loro che vanno da un'accettazione gioiosa ad un'opposizione dura, per un progetto il cui contenuto in realtà non era conosciuto

A questo documento si opponevano più direttamente due timori, che vorrei affrontare un po' più da vicino in questa lettera.

In primo luogo, c'è il timore che qui venga intaccata l'Autorità del Concilio Vaticano II e che una delle sue decisioni essenziali – la riforma liturgica – venga messa in dubbio. Tale timore è infondato

Al riguardo bisogna innanzitutto dire che il Messale, pubblicato in duplice edizione da Paolo VI e poi riedito una terza volta con l'approvazione di Giovanni Paolo II, ovviamente è e rimane la forma normale – la *forma ordinaria* – della Liturgia Eucaristica. L'ultima stesura del *Missale Romanum*, anteriore al Concilio, che è stata pubblicata con l'autorità di Papa Giovanni XXIII nel 1962 e utilizzata durante il Concilio, potrà, invece, essere usata come *forma extraordinaria* della Celebrazione liturgica.

My dear Brother Bishops,

With great trust and hope, I am consigning to you as pastors the text of a new apostolic letter *motu proprio data* on the use of the Roman liturgy prior to the reform of 1970. The document is the fruit of much reflection, numerous consultations and prayer

News reports and judgments made without sufficient information have created no little confusion. There have been very divergent reactions, ranging from joyful acceptance to harsh opposition, about a plan whose contents were in reality unknown

This document was most directly opposed on account of two fears, which I would like to address somewhat more closely in this letter.

In the first place, there is the fear that the document detracts from the authority of the Second Vatican Council, one of whose essential decisions – the liturgical reform – is being called into question. This fear is unfounded.

In this regard it must first be said that the missal published by Paul VI and then republished in two subsequent editions by John Paul II obviously is and continues to be the normal form – the *forma ordinaria* – of the Eucharistic liturgy. The last version of the Roman Missal prior to the council, which was published with the authority of Pope John XXIII in 1962 and used during the council, will now be able to be used as a *forma extraordinaria* of the liturgical celebration.

Non è appropriato parlare di queste due stesure del Messale Romano come se fossero «due Riti». Si tratta, piuttosto, di un uso duplice dell'unico e medesimo Rito

Quanto all'uso del Messale del 1962, come *forma extraordinaria* della Liturgia della Messa, vorrei attirare l'attenzione sul fatto che questo Messale non fu mai giuridicamente abrogato e, di conseguenza, in linea di principio, restò sempre permesso. Al momento dell'introduzione del nuovo Messale, non è sembrato necessario di emanare norme proprie per l'uso possibile del Messale anteriore. Probabilmente si è supposto che si sarebbe trattato di pochi casi singoli che si sarebbero risolti, caso per caso, sul posto.

Dopo, però, si è presto dimostrato che non pochi rimanevano fortemente legati a questo uso del Rito romano che, fin dall'infanzia, era per loro diventato familiare. Ciò avvenne, innanzitutto, nei Paesi in cui il movimento liturgico aveva donato a molte persone una cospicua formazione liturgica e una profonda, intima familiarità con la forma anteriore della Celebrazione liturgica.

Tutti sappiamo che, nel movimento guidato dall'Arcivescovo Lefebvre, la fedeltà al Messale antico divenne un contrassegno esterno; le ragioni di questa spaccatura, che qui nasceva, si trovavano però più in profondità. Molte persone, che accettavano chiaramente il carattere vincolante del Concilio Vaticano II e che erano fedeli al Papa e ai Vescovi, desideravano tuttavia anche ritrovare la forma, a loro cara, della sacra Liturgia; questo avvenne anzitutto perché in molti luoghi non si celebrava in modo fedele alle prescrizioni del nuovo Messale, ma esso addirittura veniva inteso come un'autorizzazione o perfino come un obbligo alla creatività, la quale portò spesso a deformazioni della Liturgia al limite del sopportabile. Parlo per esperienza, perché ho

It is not appropriate to speak of these two versions of the Roman Missal as if they were "two rites." Rather, it is a matter of a twofold use of one and the same rite

As for the use of the 1962 missal as a *forma extraordinaria* of the liturgy of the Mass, I would like to draw attention to the fact that this missal was never juridically abrogated and consequently in principle was always permitted. At the time of the introduction of the new missal, it did not seem necessary to issue specific norms for the possible use of the earlier missal. Probably it was thought that it would be a matter of a few individual cases which would be resolved, case by case, on the local level.

Afterward, however, it soon became apparent that a good number of people remained strongly attached to this usage of the Roman rite, which had been familiar to them from childhood. This was especially the case in countries where the liturgical movement had provided many people with a notable liturgical formation and a deep, personal familiarity with the earlier form of the liturgical celebration.

We all know that in the movement led by Archbishop Lefebvre fidelity to the old missal became an external mark of identity; the reasons for the break which arose over this, however, were at a deeper level. Many people who clearly accepted the binding character of the Second Vatican Council and were faithful to the pope and the bishops nonetheless also desired to recover the form of the sacred liturgy that was dear to them. This occurred above all because in many places celebrations were not faithful to the prescriptions of the new missal, but the latter actually was understood as authorizing or even requiring creativity, which frequently led to deformations of the liturgy which were hard to bear. I am speaking from experience, since I too lived through that period with all

vissuto anch'io quel periodo con tutte le sue attese e confusioni. E ho visto quanto profondamente siano state ferite, dalle deformazioni arbitrarie della Liturgia, persone che erano totalmente radicate nella fede della Chiesa.

Papa Giovanni Paolo II si vide, perciò, obbligato a dare, con il Motu Proprio «*Ecclesia Dei*» del 2 luglio 1988, un quadro normativo per l'uso del Messale del 1962, che però non conteneva prescrizioni dettagliate, ma faceva appello, in modo più generale, alla generosità dei Vescovi verso le «giuste aspirazioni» di quei fedeli che richiedevano quest'uso del Rito romano.

In quel momento il Papa voleva, così, aiutare soprattutto la Fraternità San Pio X a ritrovare la piena unità con il Successore di Pietro, cercando di guarire una ferita sentita sempre più dolorosamente. Purtroppo questa riconciliazione finora non è riuscita; tuttavia una serie di comunità hanno utilizzato con gratitudine le possibilità di questo Motu Proprio. Difficile è rimasta, invece, la questione dell'uso del Messale del 1962 al di fuori di questi gruppi, per i quali mancavano precise norme giuridiche, anzitutto perché spesso i Vescovi, in questi casi, temevano che l'autorità del Concilio fosse messa in dubbio.

Subito dopo il Concilio Vaticano II si poteva supporre che la richiesta dell'uso del Messale del 1962 si limitasse alla generazione più anziana che era cresciuta con esso, ma nel frattempo è emerso chiaramente che anche giovani persone scoprono questa forma liturgica, si sentono attratte da essa e vi trovano una forma, particolarmente appropriata per loro, di incontro con il Mistero della Santissima Eucaristia. Così è sorto un bisogno di un regolamento giuridico più chiaro che, al tempo del Motu Proprio del 1988, non era prevedibile; queste Norme intendono anche liberare i Vescovi dal dover

its hopes and its confusion. And I have seen how arbitrary deformations of the liturgy caused deep pain to individuals totally rooted in the faith of the church.

Pope John Paul II thus felt obliged to provide in his *motu proprio Ecclesia Dei* (July 2, 1988) guidelines for the use of the 1962 missal; that document, however, did not contain detailed prescriptions but appealed in a general way to the generous response of bishops toward the "legitimate aspirations" of those members of the faithful who requested this usage of the Roman rite.

At the time, the pope primarily wanted to assist the Society of St. Pius X to recover full unity with the successor of Peter and sought to heal a wound experienced ever more painfully. Unfortunately this reconciliation has not yet come about. Nonetheless, a number of communities have gratefully made use of the possibilities provided by the *motu proprio*. On the other hand, difficulties remain concerning the use of the 1962 missal outside these groups because of the lack of precise juridical norms, particularly because bishops in such cases frequently feared that the authority of the council would be called into question.

Immediately after the Second Vatican Council it was presumed that requests for the use of the 1962 missal would be limited to the older generation that had grown up with it, but in the meantime it has clearly been demonstrated that young persons too have discovered this liturgical form, felt its attraction and found in it a form of encounter with the mystery of the most holy Eucharist particularly suited to them. Thus the need has arisen for a clearer juridical regulation which had not been foreseen at the time of the 1988 *motu proprio*. The present norms are also meant to free bishops from constantly having to evaluate anew how they

sempre di nuovo valutare come sia da rispondere alle diverse situazioni

In secondo luogo, nelle discussioni sull'atteso *Motu Proprio*, venne espresso il timore che una più ampia possibilità dell'uso del Messale del 1962 avrebbe portato a disordini o addirittura a spaccature nelle comunità parrocchiali. Anche questo timore non mi sembra realmente fondato. L'uso del Messale antico presuppone una certa misura di formazione liturgica e un accesso alla lingua latina; sia l'una che l'altra non si trovano tanto di frequente. Già da questi presupposti concreti si vede chiaramente che il nuovo Messale rimarrà, certamente, la forma ordinaria del Rito Romano, non soltanto a causa della normativa giuridica, ma anche della reale situazione in cui si trovano le comunità di fedeli.

E' vero che non mancano esagerazioni e qualche volta aspetti sociali indebitamente vincolati all'attitudine di fedeli legati all'antica tradizione liturgica latina. La vostra carità e prudenza pastorale sarà stimolo e guida per un perfezionamento. Del resto le due forme dell'uso del Rito Romano possono arricchirsi a vicenda: nel Messale antico potranno e dovranno essere inseriti nuovi santi e alcuni dei nuovi prefazi. La Commissione «Ecclesia Dei» in contatto con i diversi enti dedicati all'«*usus antiquior*» studierà le possibilità pratiche. Nella celebrazione della Messa secondo il Messale di Paolo VI potrà manifestarsi, in maniera più forte di quanto non lo è spesso finora, quella sacralità che attrae molti all'antico uso. La garanzia più sicura che il Messale di Paolo VI possa unire le comunità parrocchiali e venga da loro amato consiste nel celebrare con grande riverenza in conformità alle prescrizioni; ciò rende visibile la ricchezza spirituale e la profondità teologica di questo Messale.

Sono giunto, così, a quella ragione positiva

are to respond to various situations.

In the second place, the fear was expressed in discussions about the awaited *motu proprio*, that the possibility of a wider use of the 1962 missal would lead to disarray or even divisions within parish communities. This fear also strikes me as quite unfounded. The use of the old missal presupposes a certain degree of liturgical formation and some knowledge of the Latin language; neither of these is found very often. Already from these concrete presuppositions, it is clearly seen that the new missal will certainly remain the ordinary form of the Roman rite not only on account of the juridical norms but also because of the actual situation of the communities of the faithful.

It is true that there have been exaggerations and at times social aspects unduly linked to the attitude of the faithful attached to the ancient Latin liturgical tradition. Your charity and pastoral prudence will be an incentive and guide for improving these. For that matter, the two forms of the usage of the Roman rite can be mutually enriching: New saints and some of the new prefaces can and should be inserted in the old missal. The *Ecclesia Dei* commission, in contact with various bodies devoted to the *usus antiquior*, will study the practical possibilities in this regard. The celebration of the Mass according to the missal of Paul VI will be able to demonstrate more powerfully than has been the case hitherto the sacrality that attracts many people to the former usage. The most sure guarantee that the missal of Paul VI can unite parish communities and be loved by them consists in its being celebrated with great reverence in harmony with the liturgical directives. This will bring out the spiritual richness and the theological depth of this missal.

I now come to the positive reason that

che mi ha motivato ad aggiornare mediante questo Motu Proprio quello del 1988. Si tratta di giungere ad una riconciliazione interna nel seno della Chiesa. Guardando al passato, alle divisioni che nel corso dei secoli hanno lacerato il Corpo di Cristo, si ha continuamente l'impressione che, in momenti critici in cui la divisione stava nascendo, non è stato fatto il sufficiente da parte dei responsabili della Chiesa per conservare o conquistare la riconciliazione e l'unità; si ha l'impressione che le omissioni nella Chiesa abbiano avuto una loro parte di colpa nel fatto che queste divisioni si siano potute consolidare.

Questo sguardo al passato oggi ci impone un obbligo: fare tutti gli sforzi, affinché a tutti quelli che hanno veramente il desiderio dell'unità, sia reso possibile di restare in quest'unità o di ritrovarla nuovamente. Mi viene in mente una frase della Seconda Lettera ai Corinzi, dove Paolo scrive: «La nostra bocca vi ha parlato francamente, Corinzi, e il nostro cuore si è tutto aperto per voi. Non siete davvero allo stretto in noi; è nei vostri cuori invece che siete allo stretto... Rendeteci il contraccambio, aprite anche voi il vostro cuore!» (2 Cor 6,11-13). Paolo lo dice certo in un altro contesto, ma il suo invito può e deve toccare anche noi, proprio in questo tema. Apriamo generosamente il nostro cuore e lasciamo entrare tutto ciò a cui la fede stessa offre spazio.

Non c'è nessuna contraddizione tra l'una e l'altra edizione del *Missale Romanum*. Nella storia della Liturgia c'è crescita e progresso, ma nessuna rottura. Ciò che per le generazioni anteriori era sacro, anche per noi resta sacro e grande, e non può essere improvvisamente del tutto proibito o, addirittura, giudicato dannoso. Ci fa bene a tutti conservare le ricchezze che sono cresciute nella fede e nella preghiera della Chiesa, e di dar loro il giusto posto. Ovviamente per vivere la piena comunione

motivated my decision to issue this *motu proprio* updating that of 1988. It is a matter of coming to an interior reconciliation in the heart of the church. Looking back over the past to the divisions that in the course of the centuries have rent the body of Christ, one continually has the impression that at critical moments when divisions were coming about not enough was done by the church's leaders to maintain or regain reconciliation and unity. One has the impression that omissions on the part of the church have had their share of blame for the fact that these divisions were able to harden.

This glance at the past imposes an obligation on us today: to make every effort to make it possible for all those who truly desire unity to remain in that unity or to attain it anew. I think of a sentence in the Second Letter to the Corinthians, where Paul writes: "Our mouth is open to you, Corinthians; our heart is wide. You are not restricted by us, but you are restricted in your own affections. In return ... widen your hearts also!" (2 Cor 6:11-13). Paul was certainly speaking in another context, but his exhortation can and must touch us too precisely on this subject. Let us generously open our hearts and make room for everything that the faith itself allows.

There is no contradiction between the two editions of the Roman Missal. In the history of the liturgy there is growth and progress but no rupture. What earlier generations held as sacred, remains sacred and great for us too, and it cannot be all of a sudden entirely forbidden or even considered harmful. It behooves all of us to preserve the riches that have developed in the church's faith and prayer, and to give them their proper place. Needless to say, in order to experience full communion, the priests of the communities adhering to the former usage cannot as a

anche i sacerdoti delle Comunità aderenti all'uso antico non possono, in linea di principio, escludere la celebrazione secondo i libri nuovi. Non sarebbe infatti coerente con il riconoscimento del valore e della santità del nuovo rito l'esclusione totale dello stesso.

In conclusione, cari Confratelli, mi sta a cuore sottolineare che queste nuove norme non diminuiscono in nessun modo la vostra autorità e responsabilità, né sulla liturgia né sulla pastorale dei vostri fedeli. Ogni Vescovo, infatti, è il moderatore della liturgia nella propria diocesi¹

Nulla si toglie quindi all'autorità del Vescovo il cui ruolo, comunque, rimarrà quello di vigilare affinché tutto si svolga in pace e serenità. Se dovesse nascere qualche problema che il parroco non possa risolvere, l'Ordinario locale potrà sempre intervenire, in piena armonia, però, con quanto stabilito dalle nuove norme del Motu Proprio.

Inoltre, vi invito, cari Confratelli, a scrivere alla Santa Sede un resoconto sulle vostre esperienze, tre anni dopo l'entrata in vigore di questo Motu Proprio. Se veramente fossero venute alla luce serie difficoltà, potranno essere cercate vie per trovare rimedio.

Cari Fratelli, con animo grato e fiducioso, affido al vostro cuore di Pastori queste pagine e le norme del Motu Proprio. Siamo sempre memori delle parole dell'Apostolo Paolo dirette ai presbiteri di Efeso: «Vegliate su voi stessi e su tutto il gregge, in mezzo al quale lo Spirito Santo vi ha posti come Vescovi a pascere la Chiesa di Dio, che egli si è acquistata con il suo sangue» (Att 20, 28).

matter of principle exclude celebrating according to the new books. The total exclusion of the new rite would not in fact be consistent with the recognition of its value and holiness.

In conclusion, dear brothers, I very much wish to stress that these new norms do not in any way lessen your own authority and responsibility, either for the liturgy or for the pastoral care of your faithful. Each bishop, in fact, is the moderator of the liturgy in his own diocese.

Nothing is taken away, then, from the authority of the bishop, whose role remains that of being watchful that all is done in peace and serenity. Should some problem arise which the parish priest cannot resolve, the local ordinary will always be able to intervene in full harmony, however, with all that has been laid down by the new norms of the *motu proprio*.

Furthermore, I invite you, dear brothers, to send to the Holy See an account of your experiences, three years after this *motu proprio* has taken effect. If truly serious difficulties come to light, ways to remedy them can be sought.

Dear brothers, with gratitude and trust, I entrust to your hearts as pastors these pages and the norms of the *motu proprio*. Let us always be mindful of the words of the apostle Paul addressed to the presbyters of Ephesus: "Take heed to yourselves and to all the flock, in which the Holy Spirit has made you overseers, to care for the church of God which he obtained with the blood of his own Son" (Acts 20:28).

¹ Cfr CONC ECUM VAT II, Cost sulla sacra liturgia *Sacrosanctum Concilium*, n 22 «Sacrae Liturgiae moderatio ab Ecclesiae auctoritate unice pendet quae quidem est apud Apostolicam Sedem et, ad normam iuris, apud Episcopum»

Affido alla potente intercessione di Maria, Madre della Chiesa, queste nuove norme e di cuore imparto la mia Benedizione Apostolica a Voi, cari Confratelli, ai parroci delle vostre diocesi, e a tutti i sacerdoti, vostri collaboratori, come anche a tutti i vostri fedeli.

Dato presso San Pietro, il 7 luglio 2007.

BENEDICTUS PP. XVI

AAS, 99 (2007), pp. 795-799.

I entrust these norms to the powerful intercession of Mary, mother of the church, and I cordially impart my apostolic blessing to you, dear brothers, to the parish priests of your dioceses and to all the priests, your co-workers, as well as to all your faithful.

Given at St. Peter's, July 7, 2007.

BENEDICTUS PP. XVI

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