

Rumbles From France

by Christopher A. Ferrara

A recent article in the French-language journal of the Fraternity of Saint Peter has grave implications for the effort to regularize the Society of Saint Pius X

An article recently published in the French-language theological journal of the Priestly Fraternity of Saint Peter contends, in essence, that all the priests and bishops of the Society of Saint Pius X (SSPX) are non-Catholic ministers whose ministrations Catholics should avoid under pain of sin. This claim goes well beyond any official Vatican pronouncement on the status of SSPX clergy and lay adherents.

The Letter and the Heart of the Law

In assessing the impact of this development, some background is necessary. To begin with, one must recall that John Paul II's 1988 *motu proprio Ecclesia Dei* declared that the consecration of four bishops by Archbishop Marcel Lefebvre for the SSPX without a papal mandate "implies in practice the rejection of the Roman primacy [and] constitutes a schismatic act. In performing such an act... Mons. Lefebvre and the priests Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson, and Alfonso de Galarreta, have incurred the grave penalty of excommunication envisaged by ecclesiastical law." (It is significant that the co-consecrator of the four bishops, Bishop Castro de Mayer of Campos, was not even mentioned.)

Thus, Mons. Lefebvre and the four priests he consecrated bishops, *but only these five*, were declared to have

been excommunicated *latae sententiae* as envisioned in canon 1382—that is, automatically by their own act, rather than by a sentence following a canonical process.¹ These five clerics—but, again, *only* they—were also declared to have committed the offense of schism as envisioned in canon 751, even though neither canon 1382 nor the canonical warning issued to Archbishop Lefebvre before the consecrations states that an illicit episcopal consecration constitutes a schismatic act.

Adhering strictly to the letter of the *motu proprio*, various detractors of the SSPX declare the case closed. But it has never been that simple. For one thing, the Church is not constrained by the letter of her own law when justice or charity would indicate a different course. Indeed, given that the Vatican has effectively ceased applying the term schismatic to the Orthodox or even to the *one hundred* illicitly consecrated bishops of the communist-controlled Catholic Patriotic Association (CPA) in China, it would hardly be commensurate with justice or charity to treat SSPX adherents as rank schismatics, cast into outer darkness, and leave it at that.

This is all the more so when one considers that the actions of Catholics with respect to Church law are not judged by the legal standards applicable to such civil matters as traffic tickets or insider trading. Unlike civil law, Church law explicitly recognizes an excuse from the operation of penalties where *subjective* culpability can be shown to be lacking, just as God Himself would excuse an objectively wrongful action absent subjective guilt. Even a penalty of excommunication imposed in the external

forum arguably does not operate where the offender has acted out of what he believed in conscience to be grave necessity or to avoid grave inconvenience. Cf. canons 1321, 1323.

Where schism is concerned, there must be a subjective intention *to refuse communion with the Roman Pontiff*, not merely a single act of disobedience to a particular command (in this case the command that a papal mandate is required for consecration of bishops).

Moreover, there has never been any clear determination of the status of the priests and lay adherents of the SSPX who are not the subject of the penalties declared in the *motu proprio*. While the *motu proprio* speaks of “formal adherence to the schism” as grounds for incurring the same penalties as the five, the term “formal adherence” has never been defined in any universally binding pronouncement by a competent Vatican dicastery, which would appear to be either the Congregation for the Doctrine of the Faith or the *Ecclesia Dei* Commission.

None of these observations is meant to suggest that the 1988 motu proprio may be disregarded. Rather, they are offered to suggest why, on the practical or existential level, not even certain Vatican officials who have had care of the SSPX affair have treated it as a case of true and proper schism. Despite the strict letter of the *motu proprio*, these officials have tended to view the SSPX as inhabiting a kind of canonical gray area involving Catholics in an irregular situation. There are many indications of this attitude in Vatican-level statements. Let us consider several examples:

- In *La Repubblica*, October 7, 1988, Cardinal Castillo Lara, President of the Pontifical Council for the Interpretation of Legislative Texts, conceded that under the terms of canon 1382, “The act of consecrating a bishop (without the agreement of the Pope) is *not in itself a schismatic act...*” since the only penalty imposed by the canon

is excommunication *latae sententiae*.

The Cardinal went on to assert that the SSPX schism had arisen *before* the 1988 consecrations, but that argument is without canonical foundation since no Vatican document even suggested the SSPX was schismatic before the consecrations. If, as Cardinal Lara admits, the consecrations standing alone did not produce a schism, then of course the whole question of schism becomes debatable. (I do not take up that debate here.)

- On May 3, 1994, Edward Cardinal Cassidy, President of the Pontifical Council for Christian Unity, issued a letter stating that “The situation of the members of this Society [SSPX] is an *internal matter* of the Catholic Church. The Society is not another Church or Ecclesial Community within the meaning used in the Directory [on Ecumenism]....”

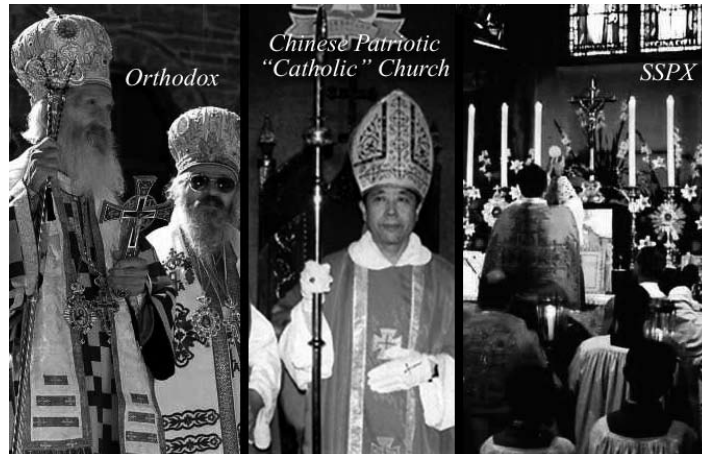
The status of the SSPX could hardly be an internal Church matter if its adherents were in a state of true and proper schism.

- On June 3, 1993, the Congregation for the Doctrine of the Faith, in a decision signed by Cardinal Ratzinger, declared that attendance at an independent chapel in Honolulu staffed by SSPX priests, and even the reception of the Sacrament of Confirmation from an SSPX bishop at this chapel, were:

not sufficient to constitute the crime of schism. Since [the Petitioner] did not, in fact, commit the crime of schism and thus did not incur the *latae sententiae* penalty, it is clear that the Decree of the Bishop

[excommunicating these Catholics] lacks the precondition on which it is founded. This Congregation, noting all of the above, is obliged to declare null and void the aforesaid Decree of the Ordinary of Honolulu.

- On September 28, 1999 (under Protocol N.539/99),



Indeed, given that the Vatican has effectively ceased applying the term schismatic to the Orthodox or even to the one hundred illicitly consecrated bishops of the communist-controlled Catholic Patriotic Association (CPA) in China, it would hardly be commensurate with justice or charity to treat SSPX adherents as rank schismatics, cast into outer darkness, and leave it at that.

Monsignor Perl of the *Ecclesia Dei* Commission replied as follows to an inquiry about whether one incurred the delict of schism by attending Mass each Sunday at an SSPX chapel in Arizona:

... The priests of the Society of St. Pius X are validly ordained, but *suspended*, that is prohibited from exercising their priestly functions because they are not properly incardinated in a diocese or religious institute in full communion with the Holy See (cf. canon 265) and also because those ordained after the schismatic episcopal ordinations were ordained by an excommunicated bishop. They are also excommunicated *if* they adhere to the schism (cf. *Ecclesia Dei*, #5, c). While up to now the Holy See has not defined what this adherence consists in, one could point to a wholesale condemnation of the Church since the Second Vatican Council and a refusal to be in communion with it (cf. canon 751 on the definition of schism)....

The situation of the faithful attending chapels of the Society of St. Pius X is more complicated. They may attend Mass there primarily because of an attraction to the earlier form of the Roman Rite *in which case they incur no penalty*. The difficulty is that the longer they frequent these chapels, the more likely it is that they will slowly imbibe the schismatic mentality which stands in judgment of the Church and refuses submission to the Roman Pontiff and communion with the members of the Church subject to him. If that becomes the case, then it would *seem* that they adhere to the schism and are consequently excommunicated.

For these reasons this Pontifical Commission cannot encourage you to frequent the chapel of the Society of St. Pius X. On the other hand it would seem that you are among those who attend Mass in chapels of the Society of St. Pius X *because of the reverence and devotion which they find there, because of their attraction to the traditional Latin Mass and not because they refuse submission to the Roman Pontiff* or reject communion with the members of the Church subject to him. At the same time it must be admitted that this is *an irregular situation*.... (my emphasis)

Here an ambivalent view of the SSPX is plainly evident: its priests are deemed *suspended*—a penalty they could hardly incur if they were true and proper schismatics, since non-Catholics are not subject to Church disciplinary law. SSPX priests are deemed schismatic only *if*

they “formally adhere” to the schism, a term which has yet to be defined. Attendance at an SSPX chapel (in the liturgical wasteland of Arizona) is not *encouraged*, but neither is it forbidden. On the contrary, it is conceded that *there is no penalty whatever* for attending Mass at SSPX chapels if one does so “because of the reverence and devotion which they find there, because of their attraction to the traditional Latin Mass and not because they refuse submission to the Roman Pontiff.” Monsignor Perl would hardly give such advice if the SSPX were a strictly schismatic association.

Even more important evidence in this regard is the letter of Cardinal Dario Castrillon Hoyos, dated April 2, 2002, to Bishop Bernard Fellay of the SSPX. The letter takes the SSPX to task for certain provocative statements in its publications and the current standstill in negotiations for its regularization. (Those negotiations had begun in the summer of 2000 with Cardinal Castrillon Hoyos’ letters to all the SSPX bishops, addressing each as “dear Brother.”)

While the letter speaks of restoring “full communion” with SSPX bishops, it clearly views them as *Catholic* prelates whose situation is irregular, rather than strictly schismatic. Note the fraternal tone of the April 2nd letter and the forms of address employed (“Your Excellency,” “Excellencies,” “Monsignors,” “brother”, etc.):

Dear Brother in the Lord:

... I wanted the meeting with *brother bishops* to constitute a gesture of fraternal love and to create an opportunity for mutual understanding. I had, therefore, the joy of meeting with Your Excellency and with Excellencies Monsignor Tissier and Williamson....

After these events, noting your good will and basing myself on the fact that your Fraternity certainly *was not disseminating any heresy, nor nurturing schismatic attitudes*, I dared to propose to you, without previously consulting anyone, the establishment of a possible date for reinsertion....

I was, therefore, committed to look for a formula that would give to your Fraternity the full guarantee of maintaining its own charism of service to Tradition, to secure the rite of Mass of Saint Pius V and to pursue fully the effort to safeguard sound doctrine and preserve Catholic morality and discipline....

From the beginning, starting with this fundamental and positive disposition, there was nourished the hope of laying to rest *the irregular situation* in which your Fraternity finds itself; also because there was not disclosed any inkling of heresy *nor any will to incur a formal schism*,

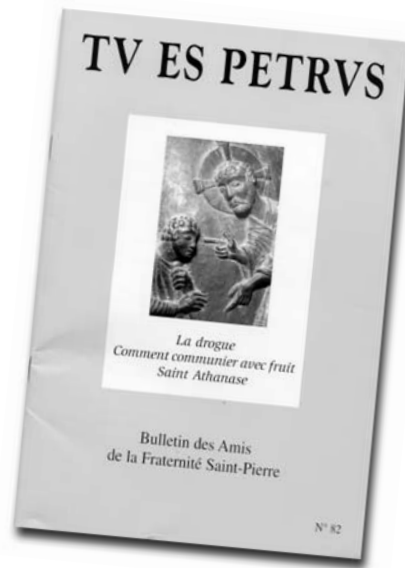
Where schism is concerned, there must be a subjective intention to refuse communion with the Roman Pontiff, not merely a single act of disobedience to a particular command.

but only the desire to contribute to the good of the universal Church, retaining the specific charism of the Society of Saint Pius X with regard to Tradition, in the current context.... (my emphasis)

The Cardinal's letter and the other statements quoted reflect a situation whose concrete circumstances do not fit neatly into existing canonical categories. The Cardinal, for one, clearly views the situation of the SSPX the same way he viewed the recently regularized extra-diocesan traditionalist outpost in Campos, Brazil, whose shepherd, Bishop Rangel, was one of those consecrated by Archbishop Lefebvre in 1988. In fact, the Cardinal refers explicitly to the SSPX's "irregular situation" and charitably concedes that in his meeting with the SSPX bishops "there was not disclosed any inkling of heresy nor any will to incur a formal schism."² This is what the SSPX has maintained all along, and what the Catholics of Campos had maintained before their regularization. Just as in the case of Campos, it is a question of *regularizing* the canonical status of a group of Roman Catholic traditionalists who would not have to abjure any formal schism (because none exists), nor any doctrinal error, but rather would retain, without the least modification, their "own charism of service to Tradition"—which is to say, the beliefs and practices of every Roman Catholic before the unprecedented changes ushered in by Vatican II.

In short, the letter of the law notwithstanding, the living reality of the SSPX affair is that of an *internal wound* in the visible commonwealth of the Church resulting from the unprecedented postconciliar upheavals, as opposed to ending a true and proper schism like that of the Orthodox or the Old Catholics.

As the Cardinal's letter notes, regularization of the SSPX has become a prime concern of Pope John Paul II himself in the waning days of his pontificate. The Cardinal's conciliatory approach may well be a reflection of that papal concern. Indeed, the recent Vatican approaches to the SSPX constitute a marked departure from the strange double standard which consigns the SSPX to oblivion while an earnest ecumenical courtship is pursued with militantly anti-Roman Orthodox bishops, and even communist-controlled CPA bishops handpicked by the bloody Jiang regime—which brutally persecutes the "underground" bishops, priests and laity who remain loyal to Rome. To his credit, Cardinal Castrillon Hoyos has recognized that this double standard is untenable.



The French Development

With these rather complex circumstances in view, one can only be perplexed by the appearance of an article in No. 82 of *Tu es Petrus*, the journal of the Priestly Fraternity of Saint Peter (FSSP) in France. The article, entitled "Can One Assist at Mass and Receive the Sacraments from a Priest of the Society of Saint Pius X?" was written by Father Hugues de Montjoye.

Unlike Cardinal Castrillon Hoyos or Monsignor Perl, Father de Montjoye unhesitatingly declares that all the *priests* as well as the bishops of the SSPX are both excommunicated and schismatic—a sentence the Vatican has never pronounced.

Father de Montjoye further opines that SSPX clerics, both bishops and priests, *are not even Catholics*. He even goes so far as to claim that reception of Communion from an SSPX priest does violence to the sacrament, injures the Church, and transgresses divine law:

[T]o receive the sacraments from a *non-Catholic minister*—which is to say, one who is not in full communion with the Church, which is the case with the Society of Saint Pius X—is *an injury to the Church, an offense to God* and to the plan he [sic] established in the world.

To communicate [receive Holy Communion] at a Mass celebrated by a schismatic priest, outside of the extreme cases where the Church authorizes it, *is to do violence to the sacrament*...

A non-Catholic minister *does violence to the sacrament* of the Eucharist in consecrating outside the communion of the Church.... They [our ancestors] were in horror of receiving communion from the hand of a schismatic.

[T]o receive the sacraments from *non-Catholic ministers* (which is the case with priests attached to the Society of Saint Pius X) it is necessary to fulfill the conditions fixed by the supreme authority and specified in the Code of Canon Law....

Note well that the enunciated conditions for exceptional cases where one can receive sacraments administered by *non-Catholic ministers* are cumulative conditions....

To accept a certain indifferentism and to communicate [receive Communion] from a priest of the Society of Saint Pius X thus places us in rebellion *against divine law*.

The last three quotations pertain to Father de Montjoye's argument concerning canon 844, § 2, which allows Catholics to receive the sacraments of confession, Com-

munion and extreme unction from Orthodox and other non-Catholic clerics with valid holy orders “whenever necessity requires or a genuine spiritual advantage suggests it,” provided that “the danger of error or indifferentism is avoided.” Contrary to the advice given by Monsignor Perl in Protocol 539/99, and contrary to the view of Cardinal Castrillon Hoyos that the SSPX “was not disseminating any heresy, nor nurturing schismatic attitudes,” Father de Montjoye opines that canon 844 does not permit the reception of the sacraments from an SSPX priest or bishop because of “the danger of indifferentism.” In other words, according to Father de Montjoye, SSPX clergy practice *a non-Catholic religion*. He concludes that, at most, one may passively “assist but not communicate” at SSPX Masses for a grave reason (e.g. a funeral), and that to communicate at such Masses is a “case of active participation (*communicatio in sacris*)” in *non-Catholic* worship, which divine law forbids.

Without at all defending canon 844 as a prudent disciplinary measure, it must be said that by construing it as he does Father de Montjoye effectively places SSPX clergy at a farther remove from the Catholic Church than the Orthodox, the Old Catholics and even the illicitly consecrated episcopal puppets of the Jiang regime! By what right does he do so, when no Vatican pronouncement binds the faithful to such a view?

Of course, the Church has always taught that schismatics do violence to the sacrament of Holy Communion when they confect it, and that *communicatio in sacris* with non-Catholics is contrary to divine law. One indeed wishes that these theological truths had not been consigned to practical oblivion in the course of the post-conciliar “ecumenical venture.” What is disturbing here is not that Father de Montjoye has presented the Church’s traditional teaching, but rather that the teaching is being revived *solely* for the purpose of denouncing a society of priests and bishops whom Cardinal Castrillon Hoyos rightly addresses as *Catholics*, despite their “irregular situation.”

How does this exercise assist the Cardinal in his effort to regularize the SSPX at such a crucial point in its dialogue with the Vatican? What does the Church gain from yet another denunciation of the SSPX at the same time both Protestants and Orthodox of every stripe are being treated as “brothers in the Lord” and invited to participate in joint liturgical ceremonies with Catholic prelates, including the Pope himself, without the least mention of

the evil of schism or *communicatio in sacris* with non-Catholics? Indeed, Vatican’s II’s decree on ecumenism, *Unitatis redintegratio* (UR), says the following concerning the schismatics of the East:

Everyone also knows with what great love the Christians of the East celebrate the sacred liturgy, especially the eucharistic celebration, source of the Church’s life and pledge of future glory... Hence, through the celebration of the Holy Eucharist in each of these churches, *the Church of God is built up and grows in stature* and through concelebration, their communion with one another is made manifest....

These Churches, although separated from us, yet possess true sacraments and above all, by apostolic succession, the priesthood and the Eucharist, whereby they are linked with us in closest intimacy. Therefore some worship in common (*communicatio in sacris*), given suitable circumstances and the approval of Church authority, *is not only possible but to be encouraged...*³

Bearing in mind that John Paul II commends this view of the Orthodox churches in *Ut Unum Sint*, n.12, we are confronted with a rather involuted paradox: Father de Montjoye, citing the Church’s traditional teaching, pro-

In short, the letter of the law notwithstanding, the living reality of the SSPX affair is that of an internal wound in the visible commonwealth of the Church resulting from the unprecedented post-conciliar upheavals, as opposed to ending a true and proper schism like that of the Orthodox or the Old Catholics.

poses to denounce the putative schism of SSPX priests, declaring that the faithful must avoid any participation in their “violence” to the Eucharist and their “injury to the Church.” Yet Cardinal Castrillon Hoyos approaches these validly ordained priests and their bishops as Catholics, while Monsignor Perl says that Catholics may receive Communion at SSPX

chapels without incurring any penalty, so long as they do so only “because of the reverence and devotion which they find there, because of their attraction to the *traditional Latin Mass*”—advice that clearly concedes SSPX priests are doing no violence to the Sacrament.

Further complicating the paradox, UR states that the Eastern schismatics (who are now said to be “linked with us in closest intimacy”) not only do no violence to the Eucharist in confecting it, but rather *build up* “the Church of God,” such that *communicatio in sacris* is not only possible but even desirable in certain circumstances. In line with UR, canon 844, in an unprecedented innovation, now permits Catholics to receive the sacraments from schismatic priests with valid Holy Orders whenever necessity

or “spiritual advantage” exists.

In the midst of all this confusion, and given the Vatican’s own ambivalent approach to the SSPX, one wonders how Father de Montjoye arrived at such certainty in condemning SSPX clergy for schismatic sacrileges and violations of divine law. And why, in the first place, did Father de Montjoye single out the SSPX for rigorous application of the otherwise neglected traditional Church teaching on schism, when that teaching is obviously far more applicable elsewhere?

An Added Mystery

To add an element of intrigue to this development, Father de Montjoye’s article includes an annex consisting of answers to questions relative to his article by none other than Monsignor Perl in his capacity as Secretary of the *Ecclesia Dei* commission. The answers were given on April 15, 2002, only ten days after Cardinal Castrillon Hoyos’ letter to Bishop Fellay. For some reason, Monsignor Perl’s correspondence (at least as reproduced in the article) lacks the protocol number that one would expect to see in an official determination of the Commission. Two of the questions and answers are quoted here:

- Q. If for a serious reason one has to assist at a Mass of the Fraternite Saint-Pie X (marriage, funeral, school feast...) should one abstain from Communion?
- A. Yes. For eucharistic Communion is also a communion with the Catholic Church (“The Church makes the Eucharist and the Eucharist makes the Church”) from which these priests have separated themselves.
- Q. Has one *sinned* if one deviated from the discipline of the Church concerning the Sunday obligation and the manner of fulfilling it?
- A. Yes. The obligation is clearly enunciated and explained by the Catechism of the Catholic Church at Nos. 2180-2183.

In other words, it is a sin to receive Holy Communion at any SSPX chapel or even passively to assist at SSPX Masses without a “grave reason”; and one also sins by attending an SSPX Mass to fulfill the Sunday obligation. These answers are consistent with Father de Montjoye’s novel claim that all SSPX priests and bishops are non-Catholic ministers.

How can this advice be reconciled with Monsignor Perl’s earlier advice that no penalty is incurred by Catholics who attend Mass at SSPX chapels “primarily because of an attraction to the earlier form of the Roman Rite”?

Further, in view of the international impact Monsignor Perl’s participation in Father de Montjoye’s article would surely have at a very delicate stage in the SSPX negotiation, it must be asked: Did Cardinal Castrillon Hoyos authorize Monsignor Perl’s intervention before it was published? One ought to presume the Cardinal did not; otherwise his own letter of April 5, and his entire approach to the SSPX as “brothers,” “Excellencies” and “Monsignors” would have to be seen as disingenuous.



Cardinal Castrillon Hoyos

Conclusion

The situation for traditionalists today is fluid, frustrating, and yet full of hope. Campos may be the beginning of a process by which the Holy Ghost will bring about the inevitable self-healing of the Church. It is hoped by many that, if the Campos Catholics continue to flourish, then the Catholics of the SSPX might one day travel the same road. Combined with the good men of the FSSP and the other traditionalist orders, the 400 clergy of the SSPX would provide Catholics committed to the fullness of tradition with a crucial pastoral infrastructure.

In the meantime, however, it is a question of building trust. As Cardinal Ratzinger, speaking of the SSPX clergy, has said: “We must do everything possible to return to these brothers their lost confidence.”⁴ That task will not be made any easier by the knowledge that the theological journal of the largest Vatican-approved traditionalist society of priests has publicly declared that these same brothers are not even Catholics. ✠

Notes

- 1 It is important to note that this canon actually originated in a papal decree of Pius XII aimed at the illicit consecration of bishops by the communist-controlled Catholic Patriotic Association in Red China, as to which (paradoxically enough) the current Vatican apparatus has assiduously avoided any declaration of formal schism, despite the CPA’s illicit ordination of fully 100 bishops without a papal mandate.
- 2 The Cardinal does say in his letter, however, that “today I am convinced that there are not lacking within [your Fraternity] persons who no longer have true faith in the authentic tradition of the Church” [oggi sono convinto che non mancano nel Vostro interno persone che non hanno piu la vera fede nella autentica Tradizione della Chiesa...]. But the necessary implication is that the generality of SSPX membership, including Bishop Fellay, are nonetheless Catholics.
- 3 *Unitatis redintegratio*, n. 15
- 4 Zenit, April 3, 2001.

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A Response to Christopher Ferrara

by Father Arnaud Devillers, Superior General, Priestly Fraternity of St. Peter

I wish to thank Father McLucas for giving me an opportunity to respond to Mr. Ferrara's article. I do find some serious confusion in the way Mr. Ferrara presents the question of the canonical status of the Society of St. Pius X (SSPX). Obviously the subject treated of in the *Tu es Petrus* article – attendance at Mass and reception of the sacraments from a SSPX priest – shall find a very different response whether or not one considers the Society of St. Pius X as schismatic. I intend here to deal only with this key question.

The Priestly Fraternity of St. Peter was founded in July 1988 by 12 clerics who had been members or associates of the Society of St. Pius X. Why did they leave? They left when Archbishop Lefebvre decided to consecrate four bishops against the express will of the Holy Father. Shortly after its foundation, the Fraternity published a theological essay written by some of its members under the direction of Father Josef Bisig, founding Superior General, called "*A Study of Episcopal Consecrations against the will of the Pope applied to the consecration of 30th June 1988 by Archbishop Marcel Lefebvre.*" The conclusion of this study is that "the episcopate issuing from the Ecône Consecrations is contrary to the very nature of the episcopate, thus non-Catholic and schismatic."¹ To be in full communion with the successor of Peter, one must be received into communion by him: a refusal entails the absence of communion. Pope Pius IX drew the logical conclusion of this principle: "All these declarations (from Tradition) are so emphatic that we must conclude from them that a man who has been declared schismatic by the Roman Pontiff must cease absolutely to claim the name of Catholic...."²

After Archbishop Lefebvre wrote to the Pope on June 2 that "the time for a frank and efficacious collaboration has not arrived yet" and that he would proceed nonetheless in ordaining several bishops, he received a double admonition clearly warning him of the schismatic character of the consecrations he intended to perform against the will of the Vicar of Christ. First from the Pope himself in his letter of June 9: "With a paternal heart, but with all

the gravity required by the current circumstances, I urge you, Revered Brother, not to embark upon a course which, if persisted in, cannot but appear as a schismatic act whose inevitable theological and

canonical consequences are well known to you. I earnestly invite you to return, in humility, to full obedience to the Vicar of Christ." The second admonition is from Cardinal Gantin, Prefect of the Congregation of Bishops, on June 17, 1988,³ which begins to warn him of the excommunication incurred automatically by the

ordinating and ordained Bishops when done without papal mandate (canon 1382) and proceeds to say: "Thus, I beg and urge you in the name of Jesus Christ to consider with great attention to what you are about to accomplish against the laws of the holy discipline as well as to the most serious consequences concerning communion with the Catholic

church, of which you are bishop."⁴

After the Consecrations, those concerned were declared excommunicated on two grounds: first for schism (canon 1364, 1), and secondly for episcopal consecrations made without papal mandate (canon 1382): "Monsignor Marcel Lefebvre, Archbishop-Bishop Emeritus of Tulle, notwithstanding the formal canonical warning of 17 June last and the repeated appeals to desist from his intention, has performed a schismatical act by the episcopal consecration of four priests, without pontifical mandate and contrary to the will of the Supreme Pontiff, and has therefore incurred the penalty envisaged by canon 1364, paragraph 1, and canon 1382 of the Code of Canon Law.

Having taken account of all the juridical effects, I declare that the above-mentioned Archbishop Marcel Lefebvre, and Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson and Alfonso de Galarreta have incurred *ipso facto* excommunication *latae sententiae* reserved to the Apostolic See.

Moreover, I declare that Monsignor Antonio de Castro Mayer, Bishop emeritus of Campos, since he took part directly in the liturgical celebration as co-consecrator



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and adhered publicly to the schismatic act, has incurred excommunication *latae sententiae* as envisaged by canon 1364, 1.

The priests and faithful are warned not to support the schism of Archbishop Lefebvre, otherwise they shall incur *ipso facto* the very grave penalty of excommunication.”

The next day the Pope promulgated the Apostolic Letter *Ecclesia Dei afflictata* given *motu proprio* (i.e., coming directly from him) where he confirms the excommunication for cause of schism:

1. With great affliction the Church has learned of the unlawful episcopal ordination conferred on 30 June last by Archbishop Marcel Lefebvre, which has frustrated all the efforts made during the previous years to ensure the full communion with the Church of the Priestly Fraternity of St. Pius X founded by the same Mons. Lefebvre. These efforts, especially intense during recent months, in which the Apostolic See has shown comprehension to the limits of the possible, were all to no avail.”
3. In itself, this act was one of disobedience to the Roman Pontiff in a very grave matter and of supreme importance for the unity of the Church, such as is the ordination of bishops whereby the apostolic succession is sacramentally perpetuated. Hence such disobedience – which implies in practice the rejection of the Roman primacy – constitutes a schismatic act. In performing such an act, notwithstanding the formal canonical warning sent to them by the Cardinal Prefect of the Congregation for Bishops on 17 June last, Mons. Lefebvre and the priests Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson and Alphonso de Galarreta, have incurred the grave penalty of excommunication envisaged by ecclesiastical law.⁵

In his article, Mr. Ferrara seems to find significant that Bishop Castro Mayer’s excommunication is not mentioned in the *motu proprio Ecclesia Dei* and seems to conclude that he is thus not excommunicated. We have seen above that he is clearly mentioned in the decree declaring the excommunications for cause of schism (canon 1364) and episcopal consecration without papal mandate (canon 1382). The *motu proprio* is not a “declaration” of excommunication. Its main objective is to urge the priests and faithful connected with the Society of St. Pius X to remain in communion with the Church and to announce what will be done to facilitate their full communion.⁶

Father Gerald Murray, in a letter to *The Latin Mass* magazine,⁷ made the following comment:

Another important criticism I received concerns the question of the possible invalidity of the declaration of excommunication issued by the Congregation for Bishops. A couple of well-versed canonists pointed out something crucial which I neglected to include in my thesis, and which probably led to an incorrect inference on the part of many readers: once the competent authority in the Church, in this case the Congregation for Bishops, has publicly declared a *latae sententiae* (automatic) penalty to have been incurred, the persons named in that declaration are bound to submit to the public effects of the penalty.

They are not free to simply ignore the penalty, alleging reasons why it does not apply to them. They may be sincerely convinced that the penalty was not incurred automatically. They may be convinced that the declaration was invalid. They may even be able to prove their case. But they cannot simply assert this, and then act as though there had been no declaration of excommunication. They must prove their case in an administrative recourse. If they choose not to lodge a recourse, then the matter rests as established by the competent Church authority. They are excommunicated.

This presumption in favor of the validity of administrative and judicial acts of Church authority exists in order to guarantee the good order of the society which is the Church. The four bishops consecrated by Archbishop Lefebvre are and must be considered as excommunicated until such time as Church authority withdraws the declaration of excommunication.



Mr. Ferrara states that there has been no clear determination of the meaning of the term “formal adherence” in the *motu proprio* which would make priests and lay adherents schismatic and thus excommunicated. He seems to ignore that the Pontifical Council for Legislative Texts has set up guidelines in 1996 at the request of the Congregation for Bishops after a bishop inquired about the status of SSPX bishops, priests and lay adherents.⁸ The document was published in Italian in *Communicationes*, the official review of that Council, but can also be found on the Vatican website. The entire document should be read carefully. Let us quote a few passages.

As the *Motu Proprio* declares in no. 5 c) the excommunication *latae sententiae* for schism regards those who “adhere formally” to the said schismatic movement.... [I]t seems to this pontifical Council that such formal adherence would have to imply two complementary elements:

- a) one of internal nature, consisting in a free and informed agreement with the substance of the schism, in other words, in the choice made in such a way of the followers of Archbishop Lefebvre which puts such an option above obedience to the Pope....
 - b) the other of an external character, consisting in the externalizing of this option, the most manifest sign of which will be the exclusive participation in Lefebvrian “ecclesial” acts, without taking part in the acts of the Catholic Church....⁹
6. In the case of the Lefebvrian deacons and priests there seems no doubt that their ministerial activity in the ambit of the schismatic movement is more than evident sign of the fact that the two requirements mentioned above (no. 5) are met, and thus that there is a formal adherence.”
 7. On the other hand, in the case of the rest of the faithful it is obvious that an occasional participation in liturgical acts or the activity of the Lefebvrian movement, done without making one’s own the attitude of doctrinal and disciplinary disunion of such a movement, does not suffice for one to be able to speak of formal adherence to the movement.”¹⁰

The motu proprio is not a “declaration” of excommunication. Its main objective is to urge the priests and faithful connected with the Society of St. Pius X to remain in communion with the Church and to announce what will be done to facilitate their full communion.

To use Cardinal Ratzinger, Cardinal Castillo Lara, Cardinal Cassidy, and Cardinal Castrillon Hoyos to prove that there is a gray area about the question of whether the Society is schismatic is disingenuous. The decree of excommunication for cause of schism of the Hawaiian six by the Bishop of Honolulu was indeed overturned by the Congregation for the Doctrine of the Faith. In his decree, the Congregation says it does not find evidence of a crime of schism on their part, although it does find some of their activities “blameworthy.” The decree did not overturn the excommunication of the SSPX bishops! (See text in note 10.)

Cardinal Castillo Lara has himself clarified his position:

In the case of Lefebvre and the four priests consecrated bishops by him, there are two offenses, canonically speaking, that they have committed. The fundamental offense is that of schism, that is, refusing submission to the Roman Pontiff and breaking communion with the Church (canon 751). This offense they had already previously committed. Only that, now, the second offense, that of consecrating

bishops, formalizes, in a certain sense and concretizes the first, and makes it explicit.”¹¹

Cardinal Cassidy does not affirm that there is no schism but only that the SSPX is not under his competence, since the Society of St. Pius X does not constitute “another Church or Ecclesial Community in the meaning used in the Ecumenical Directory.”¹² The Commission *Ecclesia Dei* is the one competent here.

The fraternal tone of Cardinal Castrillon Hoyos in his last letter to Bishop Fellay is a polite way to speak to other prelates even if they are not Catholic or in full communion with the church. The first part of the letter gives a summary of the first steps in the negotiation process during which the Cardinal had a positive view of the Society:

“noting your good will.” The two sentences used by Mr. Ferrara to build his case that the Cardinal does not consider them schismatic are both in the past tense, as though he did not have this impression any longer. They were not intended to deny what all the Church documents already quoted have said but to describe the Cardinal’s impression about the good will of Bishop Fellay at the beginning of the negotiations. Indeed, most of the letter concerns itself with different declarations by various authorities within the Society of St. Pius X

having a schismatic and even heretical savor. In reaction to some quotations which indicate that the SSPX is separated from Rome through the fault of Roman authorities and not their own, the Cardinal makes this remark, learned from the study of Church history: “No heretic or schismatic, in the course of history, has declared himself to be wrong. They have always thought that the Church was wrong.” The Cardinal notes also that some of the SSPX clerics do not have “the true faith in the authentic Tradition of the Church.”

Bishop Fellay understands correctly the letter of the Cardinal, since he writes: “Now comes the Cardinal in his letter of April 5, one month ago, with a fivefold rebuke.” He terminates the dialogue accusing the Cardinal of duplicity and quoting Archbishop Lefebvre in his letter to the Pope announcing the episcopal consecrations: “The time of a frank collaboration has not yet come.”¹³ In sum, the Cardinal has gone as far as possible in his dialogue with the SSPX, he has given them the benefit of the doubt, and at first he thought that they sincerely desired to return to full communion. A year later, he has some serious reservations.

In conclusion, I shall quote Father Murray : “The Society of St. Pius X and those who frequent their chapels must realize that continuing on a path of defiance and separation from the Holy See, and from the Church in general, will inevitably lead them further and further away from Catholic unity and into undeniable schism. Furthermore, history ominously teaches us how easily schism leads into heresy. We must all pray for the grace of a humble and sincere act of repentance and submission to the Holy See on the part of these brothers and sisters of ours. For the love of God and His Church I urge them to cast aside a separatist spirit, return to full visible unity, and join in the ever-growing movement to renew the Catholic Church by promoting Her sacred heritage and patrimony.”¹⁴ ✠

Notes

1. This study was essential to convincing this writer that the Consecrations of June 30 were truly schismatic and thus to his deciding to leave the Society of St. Pius X. He joined the Fraternity of St. Peter in June 1989. It is still available in French and German and can be ordered from Fraternity Publications in America. Unfortunately, the study was never published in English although a translation had been made (40 pages, Letter format). This English translation can be obtained free of charge in Adobe pdf format by e-mail publications@fsp.com or by regular mail (donation appreciated!) from Fraternity Publications, P.O. Box 196, Elmhurst, PA 18416.
2. Pius IX, Encyclical *Quantus Supra* of June 1, 1873, in *The Church*, #393, St. Paul edition, 1980. We recommend the reading of this whole encyclical, which dispels some of the arguments of the schismatic Armenians. E.g.: they claimed the excommunication “was unjust and therefore null and void” and that there was a state of necessity since “the faithful once deprived of their ministry, would espouse the cause of the heretics.”

3. *Congregation for Bishops*, Prot. N. 514/74.
4. To be “schismatic” and “not to be in full communion with the Catholic Church” are one and the same thing.
5. Translation from the *Osservatore Romano*, English edition N. 28 (1047) of 11 July 1988
6. Why is Bishop Castro Mayer not mentioned in the *motu proprio*? One can only guess! It is perhaps because the *motu proprio* concerns itself only with the followers of the Society of St. Pius X.
7. Father Gerald E. Murray, *Letter to the Publisher*, in *The Latin Mass Magazine*, Summer 1996 pp 54-55.
8. *Pontificium consilium de legum textibus interpretandis*, August 24, 1996, Prot. N. 5233/96 in *Communicaciones* Vol. XXIX N.2, 1997 “On the excommunication for schism incurred by the adherents of the movement of Archbishop Lefebvre.” An English translation has been published in *The Canon Law Society of America Newsletter*, N. 115, September 1998 pp 7-9 followed by a commentary of Rev. Gordon F. Read written on July 15, 1998 (pp 9-13).
9. Compare to what Father Peter Scott, U.S. District Superior, is saying to his priests in the *Priest Bulletin* pp 7-8, March 1, 1999 : “Our faithful, that is Catholics who regularly attend our Masses, should firmly and positively be told that they do not have the right to attend Indult Masses, even if they have no other way of satisfying their Sunday obligation...”
10. That is why Cardinal Ratzinger overturned the decree of excommunication of six people made by the Bishop of Hawaii. “On July 3, 1991, Mrs. Patricia Morley had recourse to this Congregation against the Decree of the Bishop of Honolulu issued on May 1, 1991. His Excellency, the Most Reverend Joseph Anthony Ferrario, with aforesaid Decree declared Mrs. Morley excommunicated on the grounds that she had committed the crime of schism and thus had incurred the *latae sententiae* penalty as provided for in canon 1364, #1 of the Code of Canon Law. This Congregation has examined carefully all the available documentation and has ascertained that the activities engaged in by the petitioner, though blameworthy on various accounts, are not sufficient to constitute the crime of schism. Since Mrs. Morley did not, in fact, commit the crime of schism and thus did not incur the *latae sententiae* penalty, it is clear that the Decree of the Bishop lacks the precondition on which it is founded. This Congregation, noting all of the above, is obliged to declare null and void the aforesaid Decree of the Ordinary of Honolulu.”
11. The entire clarification of Cardinal Castillo Lara would need to be read. It has been published in an article written by John Beaumont and John Walsh called “*The Story of the Vanishing Schism: The Strange Case of Cardinal Lara*” in the March 1994 issue of *Fidelity* magazine.
12. See *The Directory for the Application of Principles and Norms on Ecumenism* #4-5, 35-36.
13. Bishop Bernard Fellay, *Letter to Friends and Benefactors* n. 62, June 7, 2002.
14. Rev. Gerald E. Murray, op. cit.

A Final Commentary

by Christopher Ferrara

Rather than addressing the controversy engendered by Father de Montjoye’s article, Father Devillers presents a number of legal arguments (binding upon no one) to the effect that all SSPX clergy can be considered schismatics, even though the Pope’s 1988 *motu proprio* contains no such conclusion.

To recall the real issue, Father de Montjoye, going far beyond the *motu proprio*, has declared that *all the priests* of the SSPX, not just the four bishops, are schismatic “non-Catholic ministers”

who “do violence” to the Holy Eucharist whenever they confect it. Father de Montjoye further opines that any of the faithful who communicate at SSPX Masses participate in sacrilege and rebel against divine law, which forbids the active participation of Catholics in non-Catholic worship.

Father Devillers does not deny that I have accurately presented Father de Montjoye’s views. Nor does he com-

ment on the peculiarity of this sudden return to a rigorous application of the Church’s traditional teaching on schism at the same time the Vatican has abandoned such rigor in its dealings with indubitable schismatics of all stripes, including the 100 illicitly consecrated bishops of the communist-controlled CPA. Here it should be noted that in 1994 the bishops of the CPA, whose very constitution

rejects submission to the Roman Pontiff, issued a “pastoral letter” calling upon all Chinese Catholics to support China’s genocidal “popula-

tion control” policies. Yet in September 2000, during a visit to China, the Vatican’s Cardinal Etchegaray praised “*the fidelity to the Pope* of the Catholics of the official church [CPA]” while also praising “the heroic fidelity of the silent Church”—i.e., the Catholic bishops, priests and laity who are brutally persecuted by the Jiang regime for *refusing to join* the supposedly “faithful” Catholics

Father de Montjoye’s extreme views on the SSPX are not supported by any public ecclesiastical document binding upon the Church, much less by the Vatican’s actual practice toward manifest schismatics.

of the CPA!¹ Cardinal Etchegaray even went so far as to declare, “Basically it is a question of *one Church*, and *one common faith*, trying bit by bit to overcome the unhappy separation into ‘underground’ and ‘official.’”² This is only one small part of a factual context in which Father de Montjoye’s condemnation of the SSPX appears very strange indeed.

As I demonstrated in my article, Father de Montjoye’s extreme views on the SSPX are not supported by any public ecclesiastical document binding upon the Church, much less by the Vatican’s actual practice toward manifest schismatics such as the CPA bishops. Quite the contrary, as I showed from various official and unofficial Vatican statements, it is clear that on a practical or existential level (putting aside the strict letter of the *motu proprio*) the Vatican prelates who have care of the matter have not treated the SSPX as truly and properly schismatic, even as to the four bishops. Here Father Devillers has not really addressed the evidence.

First of all, Father Devillers fails to discuss the official letter of the *Ecclesia Dei* Commission by Monsignor Perl (Protocol No. 539/99, September 28, 1999), which advises that Catholics who attend Mass at SSPX chapels incur no penalty if they do so “because of the reverence and devotion which they find there, because of their attraction to the traditional Latin Mass and not because they refuse submission to the Roman Pontiff.” Father Devillers thus concedes my point that Monsignor Perl would hardly have given such advice if, as Father Montjoye claims, SSPX priests were non-Catholic ministers who “do violence” to the Sacrament with every Mass they offer, or if lay participation at SSPX Masses were a violation of divine law through active participation in non-Catholic worship. Obviously, Monsignor Perl could not have viewed worship in SSPX chapels as non-Catholic when he described it as “the *traditional* Latin Mass.”

Father Devillers cites a 1996 document from the Pontifical Council for the Interpretation of Legislative Texts (PCILT) (not published until 1998) on what might constitute “formal adherence” to the declared schism where SSPX priests are concerned. The very quotation provided by Father Devillers, however, demonstrates that the PCILT text merely expresses *opinions* without the force of ecclesiastical law:

- [I]t *seems* to this pontifical Council that such formal adherence would have to imply two complementary elements:
- one of internal nature, consisting in a free and informed agreement with the substance of the schism, in other words, in the choice made in such a way of the followers of Archbishop Lefebvre which puts such an option above obedience to the Pope (...)
 - the other of an external character, consisting in the externalizing of this option, the most manifest sign of which will be the exclusive participation in Lefebvrian “ecclesial” acts, without taking part in the acts of the Catholic Church (...)

In the case of the Lefebvrian deacons and priests there *seems* no doubt that their ministerial activity in the ambit of the schismatic movement is more than evident sign of the fact that the two requirements mentioned above (n.5) are met, and thus that there is a formal adherence. (my emphasis)

Observations about what “seems” to be the case with SSPX priests can hardly bind the universal Church, especially in view of the *later* advice of Monsignor Perl, who is Secretary of the

Pontifical Commission *Ecclesia Dei*, which commission Father Devillers admits “is the one competent here.” In fact, Monsignor Perl’s 1999 letter notes that the Holy See has never defined the term “formal adherence.” Thus, *not even Monsignor Perl cites the 1996 PCILT document as binding on the faithful.*

Father Devillers states that Cardinal Cassidy’s letter of May 3, 1994 “does not affirm there is no schism but only that SSPX is not under his competence since the Society of St. Pius X does not constitute another Church or Ecclesial Community in the meaning used in the Ecumenical Directory.” But Father Devillers does not mention Cardinal Cassidy’s statement in the same letter, which I quoted, that “the situation of the members of this Society [SSPX] is an *internal matter* of the Catholic Church.” Father Devillers does not answer the question of how a true and proper schism could be viewed as an internal Church matter.

Concerning the letter from Cardinal Castrillon Hoyos to Bishop Fellay, Father Devillers asserts that the two sentences in which the Cardinal states that he “*does not consider them* [SSPX clergy] *schismatic* are both in the



past tense, as though he did not have this impression any longer.” One may of course disagree with Father Devillers’ speculation about the Cardinal’s present state of mind. But leaving that aside, Father Devillers overlooks an obvious question: How could Cardinal Castrillon Hoyos have acquired the “impression” that SSPX clergy are *not* schismatic if, as Father de Montjoye claims, the schismatic status of all SSPX clergy, bishops and priests alike, is beyond dispute? At any rate, a fair reading of the Cardinal’s letter as a whole shows that he (unlike Father de Montjoye) does not write the SSPX clergy out of the Church, but rather suggests that *some* SSPX adherents (whom he does not name) lack faith in “the authentic tradition” of the Church, which is not the same as saying that they are not Catholics. The necessary implication is that the Cardinal still regards the generality of SSPX clergy, including Bishop Fellay himself, as Catholic brethren in an irregular situation. By no stretch of the imagination can the Cardinal’s letter support Father de Montjoye’s extravagant claim that SSPX clergy are non-Catholic ministers committing daily sacrileges and transgressions of divine law.

In this connection Father Devillers quotes Father Gerald Murray as follows: “The Society of St. Pius X and those who frequent their chapels must realize that continuing on a path of defiance and separation from the Holy See, and from the Church in general, will inevitably lead them further and further away from Catholic unity and into undeniable schism.” But how could SSPX be *led into* “undeniable schism” if it is already supposed to be in such a state?

Father Devillers also cites Father Murray’s argument that the SSPX bishops are bound to observe the *public effects* of the 1988 excommunication since they did not contest it by way of administrative recourse, even if the excommunication may be inoperative in the internal forum due to lack of subjective culpability. But what does this have to do with the question of schism on the part of the bishops *and* the priests of the SSPX, the latter never having been declared excommunicated? Schism is a *state*, not a penalty like excommunication. That is, schism cannot be imposed as the punishment for some act. The state of schism either exists or it does not.

In this regard, Father Devillers concedes that Cardinal Castillo-Lara admitted to the press that the episcopal consecrations of 1988 *were not in themselves a schismatic act* since the Code of Canon Law does not treat illicit episcopal consecrations as *per se* schismatic. If that is true, then there was no canonical basis for the declaration of schism

because the *motu proprio* cites only the 1988 episcopal consecrations as grounds. While Father Devillers quotes Cardinal Castillo-Lara’s later “clarification” that the 1988 consecrations merely “concretized” a *preexisting* schism, there is no Vatican pronouncement nor any evidence, that the SSPX was in schism before 1988. The Cardinal’s opinion thus appears to be without basis in law or in fact.

As we can see, Father Devillers’ own cited authorities only underscore the point that despite the letter of the *motu proprio*, there is a legitimate tendency, even among Vatican prelates, to view the SSPX as being in a situation that does not really fit into the existing canonical category of a true and proper schism.

I conclude by noting Father Devillers’ statement that “I do find some serious confusion in the way Mr. Ferrara presents the question of the canonical status of the Society of St. Pius X (SSPX).” In this he is quite correct. My presentation evinces “some serious confusion” because it describes a seriously confused situation. It is a situation without precedent in Church history, like so many other things in the postconciliar landscape. My basic point, which Father Devillers does not address, is that in view of this confusion Father de Montjoye is hardly in a position to declare what the Vatican has

*...there is a legitimate tendency,
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refrained from declaring: that SSPX priests and bishops are non-Catholics who do violence to the Eucharist, and that any Catholic who participates in their Masses transgresses divine law by partaking in non-Catholic worship.

The Latin Mass, for which I write this article, has indicated to me its strong support for the Priestly Fraternity of St. Peter’s important work in the cause of Tradition, particularly its vibrant North American apostolate with a seminary full of exemplary candidates for the sacred priesthood. Likewise, any reader of *The Latin Mass* knows of its strong support for the Pope and his delegates in their effort to regularize the SSPX, a delicate process in which charity and diplomacy are essential to success. Given that the thing to be desired is a unification of the various groups with a “charism in service of Tradition” (to recall Cardinal Castrillon Hoyos’ description of the SSPX), Father de Montjoye’s astonishingly harsh condemnation of SSPX clergy could not have been more inopportune. What remains unexplained is why this condemnation was published, and why it appeared when it did. ✕

Notes

¹ *Zenit*, September 28, 2000.

² *Catholic World News*, September 25, 2000.