

THE SYNOD OF BISHOPS
IN THE CONTEXT
OF COLLEGIALLY

A THEOLOGICAL STUDY
FROM *PASTOR ÆTERNUS* TO *APOSTOLOS SUOS*

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Word and Silence

Cover photo: painting designed by *Natalia Tsarkova*^ varavi tone, 2001 (50 cm x 100 cm), Segreteria Generale del Sinodo ".
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Preface

5 There is a term whose use and diffusion have been affirmed in the last forty years, and that is *collegiality*. The use of the term has undergone an impressive inflation which has had a devastating effect on the clarity and meaning of the term in theological and ecclesial circles, each one seeking to give it a meaning of its own which reflects its own theses.

Now, in this panorama, it will not escape anyone's attention that this new institution, strongly desired by His Holiness Pope Paul VI at the end of the Second Vatican Council, is central: the Synod of Bishops. Synod true fruit of this conciliar event, and was juridically standardized in the 1983 Code of Canon Law, just twenty years ago. Thus its purpose and its consultative and deliberative functions find their place in the whole ecclesial arrangement, both juridically and ecclesiologically.

It is also true that a twenty-year-old ecclesial institution is, in the light of the Church's two-thousand-year history, an organism which is called to go through the various stages of existence before reaching full maturity. This is why, from its very first years, the nascent institution found itself at the centre of the crossfire between those who, on the one hand, distrusted it, fearing a *collegial* drift of this new organism, and, on the other hand, the supporters of *collegiality* who criticized the reinforcement of the primatial role of the Sovereign Pontiff, through the Synod.

The 20 Synodal Assemblies held to date have disproved this. The new institution has shown itself to be the best current expression of collegiality in the broad sense, helping to strengthen this *partialis effectus collegialis* by *V affectas collegialis sub et cum Petro*. Indeed, its twofold purpose of assisting the Roman Pontiff in his government of the universal Church and of strengthening the bonds that unite the bishops among themselves and with the Pope are thus harmoniously united in the idea of the collegiality of the episcopate.

This is evidenced by the sentiment of the Holy Father, Pope John Paul II, who likes to call himself "the Pope of the Synod" because of his numerous synodal convocations (indictiones)¹, and who repeats in Ternie

¹ Since his elevation to the Throne of St. Peter, His Holiness John has convened 15 of the 20 Synodal Assemblies that have been^c ^{^br}

that the Synod constitutes "a particularly fruitful expression and instrument of episcopal collegiality"². On other occasions he emphasizes the principle: "the closer the communion of the bishops among themselves, the more the communion of the Church as a whole is enriched"³. Despite its critics, the Synod of Bishops, far from weakening the exercise of supreme power in the Church, also emphasizes its dual mode: primatial or hierarchical, and collective *in solidum*, in the sense that the members of the College effectively participate together in the one power. In fact, this second point is more suited *strictly speaking* to the definition of an Ecumenical Council than of a Synod of Bishops, but in a broad sense it is also suited to it, since it is an institution capable of exercising *the potestas deliberativa* in an exceptional way by virtue of a delegation from the Sovereign Pontiff.

The few notions briefly outlined above show us how essential it, in a field as sensitive as that of the Primacy and its links with the whole College of Bishops, to have at one's disposal recent in-depth studies which can both shed light on the substance of the subject and respond to the various objections or trends of the moment. The present volume by **Father Dom François Dupré la Tour, O.S.B.**, belongs by right to this line. The author, with patience and clarity, first reconstructs the historical, doctrinal and juridical framework of the notion of collegiality prior to the Second Vatican Council, before tackling in a second part the post-conciliar phase and the role played by the Synod of Bishops. The correctness of the reasoning and its logical development make this book an indispensable instrument for a sound understanding of the whole question of collegiality and its expression in the Church

Ordinary

General Meetings (1980, 1983, 1987, 1990, 1994, 2)

Extraordinary Assembly (1985); 8 Special Assemblies (for the Netherlands [LP Europe [1991], for Africa [1994], for Lebanon [1995], for¹ [1997], for Asia [1998], for Oceania [1998], Second for P [1999]).

2 JOHN PAUL II, *Homily on the occasion of the Episcopal ordination of Josej Ionino* (15.09.1979) in *L'Osservatore Romano*, daily edition, 17-18.09.1979, P-/-.

3 JOHN PAUL II, Post-Synodal Apostolic Exhortation *Ecclesia in Asia* (14.09.1995), 15:/LIS 88 (1996) 13.

May this volume contribute positively to the reflection and provide a cornerstone for the debate on the relationship between the exercise of the pontifical primacy and collegiality within the College of Bishops! Without a doubt, the readers of this work, whether specialists or simple faithful, will derive great benefit and profit from their reading, thus contributing to a correct understanding within the People of God of the Primacy and its exercise, but also giving to the notion of collegiality clear and well-defined contours.

Vatican City, January 15, 2003,

Jan P. Card. **SCHOTTE**, C.I.C.M. General
Secretary of the Synod of Bishops

Table of abbreviations

AAS	<i>Acta Apostolica Sedis</i> . Commentarium officiale, Roma-Città del Vaticano, 1909 ff.
AD	<i>Acta et Documenta Concilii (Ecumenici) Vaticani II Apparando</i> Typis Polyglottis Vaticanis 1964 - 1967.
AS	<i>Acta Synodalia Sacrosancti Concilii (Ecumenici) Vaticani II</i> , Typis Polyglottis Vaticanis 1971 ff.
ASS	
CIC (1983)	<i>Acta Sancta Sedis</i> , Rome, 1865-1908.
CIC (1917)	Codex Iuris Canonici (1983).
CCEO (1990)	Codex Iuris Canonici (1917). Codex Canonum Ecclesiarum Orientalium (1990).
Cone. Vat. II Syn.	GIL HELLIN Francesco (a cura di), Concilii Vaticani II Synopsis in ordinem redigens schemata cum relationibus necnon Patrum orationes atque animadversiones, Constitutio Dogmatica "De Ecclesia" <i>Lumen Gentium</i> , Libreria Editrice Vaticana, Roma, 1995.
CD	<i>Christus Dominus</i> , Decree on the Pastoral Office of Bishops.
CN	<i>Communio innotuit</i> , Letter of the Congregation for the Doctrine of the Faith on Certain Aspects of the Church Understood as Communion of 28 May 1992, in <i>Catholic Documentation</i> 2055 (1992), pp. 729 & seq.

- CTI International Theological Commission.
- DS DENZINGER H. - SCHÖNMETZGER A., *Enchiridion symbolorum definitionum et - declarationum de rebus fidei et morum*. Editio XXXVII, Herder, Freiburg in Breisgau, 1991.
- DTC *Dictionnaire de Théologie Catholique*, 28 voi. edited by A. VACANT, C. MANGENOT, E. AMANN, Paris, 1903-1950.
- GS *Gaudium et spes*, Pastoral Constitution on the Church in the Modern World.
- IDOC *Informazione, Documenti nuovi*, Ed. Mondadori, Verona, 1966 ff.
- LG Dogmatic Constitution on the Church, *Lumen Gentium*.
- LThK Lexikon für Theologie und Kirche, 10 vols, Freiburg im Br. 1930-1938.
- MANSI Sacrorum Conciliorum Nova et Amplissima Collectio, ed. J. D. Mansi, 53 vols, Florence, 1759-1929.
- CIP Nota Explicativa Prævia ad Modos circa caput tertium Schematis "De Ecclesia".
- PL Patrologiæ cursus completus. Series Latina, ed. J. P. Migne, 221 voi., Paris, 1844-1864.
- RSPT Revue de Sciences Philosophiques et Théologiques, Paris, 1907 ff.
- SC *Sacrosanctum Concilium*, Constitution on holy liturgy.
- S. Th. Saint Thomas Aquinas, *Summa theologicæ*, - Edizione Leonina, vol. I-XII, 1889-1905.

Introduction

"After having long drawn on the sources of divine mercy during the Holy Year, the mystical ship that is the Church is preparing to set sail again to bring the message of salvation to the world. Together we want to unfurl her sails in the wind of the Holy Spirit, scrutinizing the signs of the times and interpreting them in the light of the Gospel in order to answer the eternal questions men ask about the meaning of the present and future life and about their mutual relations (GS4). \

With these words addressed to the new Cardinals, in the context of the Consistory of 21 February 2001, the Holy Father recalled the common and united task of the Pastors, who, unfurling together the veils of the Church, are called to cooperate collegially for the spiritual good of souls and the progress of the Gospel.

It must be noted that in the last forty years, in the wake of the Second Vatican Council, the use of the name *collegiality*, or of the adjective *collegial*, has impressively widespread, since these terms are found in an ever-increasing number of theological articles and documents of the official Magisterium, as well as in speeches and even in homilies delivered by pastors of the Church. It is not lost on anyone either that the theme of collegiality is a subject which periodically comes to fore in debates among theologians and often feeds the religious chronicle

At the same time, a new institution came into being, under the name of the Synod of Bishops; since then, the Church has celebrated almost

1. JOHN PAUL II, *Allocation to the consistory of Cardinals*, 21 February 2001, in *La Documentation Catholique* 2243 (2001), p. 213.

Each year, the Synod holds an assembly, either continental or general, which is a unique opportunity for a good number of bishops from an entire continent or even from the entire Catholic universe gather together time when the Church has just celebrated its eleventh General Synod of Bishops, dedicated to the bishop as servant of the Gospel of Jesus Christ for the hope of the world, and is preparing to celebrate its twelfth General Synod on the theme of the Eucharist, one can ask oneself about the role and importance of this institution, which is often seen as a highly qualified expression of episcopal collegiality. Did not Pope John Paul II himself say that he considered it a privileged expression of episcopal collegiality², a particularly fruitful expression and a valid instrument of episcopal collegiality³, a principal manifestation of collegiality*.

why a fundamental reflection is necessary, first on the theme of collegiality, which seems to be the theological and pastoral support of the synodal institution, and then on the role and nature of the Synod of Bishops in this context of collegiality, so as to properly evaluate place of this new institution relation the Primate-Episcopate

In an open letter to Pope John Paul II on November 21, 1983, Archbishop Lefebvre (former Archbishop of Tulle) and Bishop de Castro-Mayer (former Bishop of Campos, Brazil), In particular, the doctrine set forth in the Constitution *Lumen Gentium* concerning the supreme collegial power over the universal Church of the Body of Bishops united to the Pope was among the errors denounced by the two prelates⁵. Among other things, they reproached:

◆ After undermining the unity of the faith, today's modernists are working to undermine the hierarchical unity of the Church.

■ JOHN PAUL II *Address to the Council of the General Secretariat of the Synod*, 23 February 1980, in *Catholic Documentation* 1782 (1980), p. 255.

3-John Paul II, *Address to the General Council of the Synod*, 30 April 1983, in *Catholic Documentation* 1854 (1983), p. 611.

4' JOHN PAUL II, *Allocution to the Sacred College*, 26 November 1983, in *Æ4S 75 ir P** ^3: *Quæ Synodus præcipua est ostentatio collegialitatis, id est peculiaris illius responsabilitatis Episcoporum, quemadmodum Concilium statuit").

of Archbishop Lefebvre and Bishop de Castro-Mayer to Pope John T I^e 21 novembre 1983, in *la Documentation Catholique* 1874 (1984), pp. 544-40. The two prelates introduced their criticisms with these words: "For this purpose, we allow ourselves to attach an appendix containing the principal errors which are at the origin of this tragic situation and which, moreover, have already been condemned by your predecessors.

The doctrine, already suggested by the document *Lumen Gentium* of the Second Vatican Council, will be taken up explicitly by the new Canon Law (Canon 336); a doctrine according to which the College of Bishops, together with the Pope, also enjoys supreme power in the Church in a habitual and constant manner.

This doctrine of dual supreme power is contrary to the teaching and

practice of the Church's Magisterium, especially in Vatican Council I (DS 3055) and in Leo XIII's encyclical *Satis cognitum*. Only the Pope has this supreme power, which he communicates, insofar as he deems appropriate and in extraordinary circumstances.

According to these two prelates, the doctrine commonly known as *collegiality* is an invention of the Second Vatican Council and the expression of a democratization of the Church, in direct opposition to its hierarchical constitution, divinely instituted by Our Lord Jesus Christ; it is therefore also in contradiction with the practice and previous teaching of the Church's Magisterium

In the first part of our work, devoted to the study of the theme of collegiality, we want to respond to this objection by showing that, if the Second Vatican Council did indeed enunciate the doctrine of the collegial power of the bishops in union with the Pope over the universal Church, it did not invent anything on this subject, but merely authenticated a serious and traditional theological current. By means of a theological reflection on the theme of collegiality, stemming mainly from the work of Vatican I, we propose to give an account of the continuity of the Church's teaching on this subject. We therefore ask whether the development of the doctrine of the episcopate and especially of the collegial power of the bishops, in its harmonious relationship with the doctrine of the primacy of the Roman Pontiff, as defined in the First Vatican Council, can be considered as an example of homogeneous doctrinal progress⁶, thanks to which the Church, aided by the Holy Spirit who leads her towards the whole truth, has not ceased and can never cease to scrutinize the mystery of the Incarnate Word⁷.

We know that the Fathers of the Second Vatican Council wanted to deepen in more systematic way the theme of the Church, which had already been partially dealt with in the First Vatican Council. They endeavoured to take up and continue the work which that Council had had to interrupt following the outbreak of the war of 1870. Striving to present the mystery of the Church in its harmonious unity, they have deepened in particular the theme of the Episcopate, which could not be treated at Vatican I. The doctrine of collegiality was the subject of a special presentation in the text of the Constitution *Lumen Gentium*; paragraphs 22 and 23 deal not only with the theme of the power of the College of Bishops over the universal Church, but also with relations within the College, the collegial union of bishops, collegial solicitude towards the whole Church,

6 The First Vatican Council, citing the *Commonitorium* of St. Vincent de Lerins, in the dogmatic constitution *Dei Filius* (DS 3020) refers to a homogeneous doctrinal progress always possible in theology: "Crescat igitur et multum vehementer proficiat, tam singulorum quam omnium, tam unius hominis quam totius Ecclesiae, aetatum ac saeculorum gradibus, intelligentia, scientia, sapientia: sed in suo dumtaxat genere, in eodem scilicet dogmate, eodem sensu eademque sententia."

7 Cf. Encyclical *Irritatis splendor* 28.

the relationship between Primate and Episcopate, etc.

reason, in our first part, we do not limit ourselves to studying the strictly collegial power of the bishops over the universal Church, but we also draw out the main lines of the conciliar teaching on the other aspects of collegiality. To this end, we not only refer to the documents of the Second Vatican Council, but we also draw on the sources and deliberations of the Council itself, in order to arrive at a better understanding of the doctrine set forth. We also take into account more recent contributions to this teaching, thanks to later documents of the Magisterium, in particular the letter *Communio in notio* of the Congregation for the Doctrine of the Faith⁸, and the *Motu proprio Apostóles suos* of Pope John Paul II⁹. Thus, after having firmly established the theological foundations of collegiality, we analyze the nuances and distinctions it entails, examining especially the notions of *effective collegiality* and *affective collegiality*, *full collegiality* and *partial collegiality*, *collegiality in the strict sense* and *collegiality in the broad sense*, *collegial feeling*. All of these notions are particularly useful for us to address, in the second part, the functioning of the Synod of Bishops, the nature of its acts or deliberations, its close link with collegiality and ecclesial communion.

The second part of our work deals specifically with the Synod of Bishops as such, and more particularly with the study of its theological nature. Our attention is directed primarily to the founding documents which gave birth to this institution and determined its mode of operation, namely, the *Motu proprio Apostolica sollicitudo* of Pope Paul VI and the official *regulations* which followed the institution of the Synod. But we also intend to make use of the irreplaceable sources constituted by the interventions of the Fathers in the conciliar aula, when they expressed their opinion on the desirability or validity of a central consultative or deliberative body which could assist the Supreme Pontiff in the exercise of his power of government. This leads us to consider also the patterns developed and discussed during the Council itself, so as to discern clearly the process that gave rise to this institution.

It is obvious that our study, even if it refers at times to juridical or canonical notions, especially in chapters I and II of the second part, does not pretend to judge or deal directly with the canonical aspect of this new institution; others have already applied themselves to this and have undertaken detailed analyses of its functioning and juridical nature¹⁰. The direct object of

⁸ CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Letter Communio in notio*, 28 May 1992, in *Catholic Documentation* 2055 (1992), pp. 729 & seq.

⁹ JOHN PAUL II, *Motu Proprio Apostolos suos*, 21 May 1998, in *Catholic Documentation* 2188 (1998), pp. 751-759.

¹⁰ It is sufficient to refer to the works of G. P. MILANO, *H Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milano, 1985; of M. BRAVI, *Il Sinodo dei Vescovi*, P.U.G., Roma, 1995; by J. I. ARRIETA, *El Sinodo de los obispos*, Ediciones EUNSA, Pamplona, 1987; or by G. CAPOCASA, *Il Sinodo dei Vescovi istituito dal Motu Proprio "Apostolica sollicitudo"*, Dissertatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe,

our investigation is rather the intimate nature of this organism on the theological level. We intend to analyze the place of the Synod in the theology of the Church and more particularly its relationship to collegiality, since its very existence seems to be in direct relation to the great conciliar discussions on this theme.

The debate on the *collegiality* of the Synod of Bishops has not lost any of its topicality today, judging by some current interventionist theologians or Churchmen who, with regard to the exercise of episcopal collegiality, note and sometimes regret the limits inherent in the nature of this body. S. Dianich considers the Synod of Bishops, like the Episcopal Conferences, as a devalued form of collegiality¹¹. Similarly, Cardinal Martini, in a public statement during the Synod of Bishops for Europe on October 7, 1999, expressed the conviction that the Synod of Bishops was not the appropriate place to address the great questions of the day, and advocated the use of a more universal and authoritative collegial instrument, so as to renew the experience of communion and collegiality lived at the Second Vatican Council¹². The same Cardinal, in another conference, returned to this theme and renewed his remarks on the insufficiency of "collegiality" in the Synod of Bishops, in these terms:

"For the Catholic Church, the Second Vatican Council envisaged the Synod of Bishops as an instrument for the exercise of episcopal collegiality. Synods have been very important experiences; however, their duration is too short and does not allow them to achieve that common awareness and communion desirable and necessary for drawing common conclusions on delicate and controversial issues¹³."

While it is not our intention to determine whether the Synod of Bishops is today the most suitable or effective means for the good government of the Church and the solution of all major problems, we are concerned to show how the Synod is both a consultative body at the service of the primatial office, and a particularly rich instrument at the service of collegiality. The final chapter of our work is devoted to the discussion of the possibility of an act of collegiality

Roma, 1975

11 S. DIANICH, *È ancora possibile un Concilio?* in *II Regno-Attualità* 10/2000, p. 296: "(After the Council) collegiality is seen only in its weakest forms: that of the Episcopal Council and that of the episcopal conferences. What is missing is its strongest form: that of the Ecumenical Council (...), that of the ordinary meeting, almost lacking in importance (...)"

12 "A third dream is... the occasional repetition, in the course of the century, of experiences of a universal meeting between bishops so as to resolve some of these disciplinary and doctrinal knots... Sociological surveys, collection of signatures, and pressure groups are certainly not valid instruments for this purpose. But perhaps the Synod is not sufficiently adapted either. Some of these problems probably require a more universal and authoritative collegial instrument, in order to face them with freedom in the full exercise of episcopal collegiality, listening to the Holy Spirit and looking to the common good of the Church and of the whole of humanity" (Cardinal Carlo MARTINI, *Intervention at the Synod of Bishops for Europe*, 7 October 1999, in *II Regno-Documenti* 19/99, p. 608)

13 Cardinal Carlo MARTINI, *Address to the Representatives of the Lutheran Federation in Milan*, 10 October 2000, in *II Regno-Attualità* 18/2000, p. 597.

in the strict sense on the occasion of the Synod of Bishops.

The method adopted is at once historical, analytical and critical. The historical aspect has a certain priority in this study, since, as the title suggests, *The Synod of Bishops...*, a theological study from PASTOR ÆTERNUS to APOSTOLOS SUOS, it is a matter of underlining the character of continuity and of progressive and homogeneous development, in the elaboration of the doctrine of collegiality and in the establishment and functioning of the Synod of Bishops, as a realization of this collegiality. In the first part of our work, we analyze the notion of collegiality as it was perceived in the Church at the time of the First Vatican Council, taking into account the work and discussions of that Council, which constitute an unparalleled reference point for the debate. We then continue our study chronologically, following the development of the doctrine up to the Vatican Council II. We wanted to examine and evaluate the different theological currents that prepared the debates of the last Council, referring to the theologians who distinguished themselves that period. We use the analytical method to expose the great ideas of Vatican II on this theme. In the second part, the methodology followed is mainly analytical and critical, especially in determining the purpose and function of the Synod, and especially in evaluating the theological nature and place of this institution in the Primate-Bishop relationship.

The main sources for our study are the documents of the Vatican I and Vatican II Councils, as well as the *Acta* of these Councils, and the commentaries of various authors. For the specific study of the Synod of Bishops, the documents of the Magisterium of the last, the various commentaries of the *Motu proprio Apostólica sollicitudo*¹⁴ constitute the basic documentation. Since the theme is very current, we have referred to numerous articles by authors who have spoken on the subject of the Synod or synodality. Most of the bibliography used is written in Latin, French or Italian, but we do not exclude German, English or Spanish authors. For the sake of greater homogeneity of the text, we have chosen only the French language for the editing, allowing ourselves only a few quotations in Latin, whenever we have judged it appropriate. The footnotes, on the other hand, often refer to texts written in their original language¹⁴.

Our work is therefore divided into two distinct parts:

The first part is entirely devoted to an analysis of the theme of collegiality, from the discussions held at the First Vatican Council to recent documents of the Magisterium. In the first chapter, the most important documents concerning the Vatican I discussions on the constitution *Pastor æternus* are analysed, together with the preparatory work for the *Constitutio*

¹⁴ However, we gladly quote the recent Magisterial documents in the French version of the Documentation Catholique, even if it means slightly correcting, in some cases, the translation, if it seems to us to be defective or imprecise.

Dogmatica Secunda "De Ecclesia Christi", written under the responsibility of Father Kleutgen. Then, in the second chapter, we consider the development of ideas among the theologians of the intermediate period, who distinguished themselves by their renown and their theological science, especially in the field of ecclesiology. In the third chapter, we focus on the various positions on the eve of the debates of the last Council; finally, in the fourth chapter, we highlight the main lines of the theme of collegiality¹⁵, as treated by the Fathers of the Second Vatican Council and developed in the post-conciliar Magisterium.

In the **second part**, we analyze in detail the Synod of Bishops as it was instituted by Paul VI in 1965: a first chapter we consider its origin and institution, in a second chapter its purpose and functions, and in a third chapter the theology proper to the Synod, with its particular position in the Primate-Bishop relationship. Finally, the possibility of an act of collegiality in the strict sense, on the occasion of the Synod of Bishops, is the subject of the fourth chapter.

At the end of our study, we summarize in the section entitled conclusions, the main points highlighted:

The realization of the Synod of Bishops perfects doctrinal continuity with the debates of Vatican Council I on primacy and collegiality.

The synodal institution fosters a strengthening of communion whole Church and the consolidation of the collegial bonds that unite the bishops of the whole world with each other and with the Pope.

- The Synod of Bishops plays a privileged role in the service of both primacy and collegiality.

- Finally, we mention the possibility of an extra-conciliar act strictly collegial on the occasion of the assembly of a General Synod.

Let us recall that the Holy Father, in his encyclical *Ut unum sint* of 25 May 1995, indicated the need for further reflection on the role and form of the Petrine ministry, in order to resolve the persistent difficulties between the various Christian confessions concerning the Primacy of the Roman Pontiff¹⁶. Whether one likes it or not, the Primacy of the Bishop of Rome stands as a kind of

¹⁵ It is well understood that when we use the term *collegiality* in the writing of Chapters I, II and III, we mean this term according to the way of speaking of the time and in the ecclesiastical or theological context of the pre-conciliar period, and not in a technical sense which it will be our task to specify and clarify in Chapter IV.

¹⁶ "When the Catholic Church affirms that the office of the Bishop of Rome responds to the will of Christ, she does not separate this office from the mission entrusted to all the bishops, who are also vicars and legates of Christ (cf. *LG* 27). The Bishop of Rome belongs to their College and they are brothers in ministry (...). I am convinced that I have a special responsibility in this regard, especially when I see the ecumenical aspiration of the majority of Christian communities and when I listen to the request that I find a way of exercising the primacy open to a new situation, but without renouncing the essential nature of its mission. I ask the Holy Spirit to give us his light and to enlighten all the pastors and theologians of our Churches, so that we may seek, obviously together, the forms in which this ministry (of the Bishop of Rome) can realize a service of love recognized by one and all" (*Ut unum sint* 95).

stumbling block on the way to Rome for Christians who are sincerely in love with unity. He who is the foundation of the Church is sometimes denounced in ecumenical dialogue as the main culprit in the persistence of divisions among Christians¹⁷! For our part, aware of what is at stake and of the importance of the debates on the subject of the Synod of Bishops, not only for the future of the dialogue with the separated Brethren, but also for the very life of the Catholic Church, we would be happy if our study could make a humble contribution to the work of reflection suggested by the Holy Father in his encyclical. Our wish is to highlight the role and place of the Synod of Bishops in its relationship with the Petrine exercise, and to show how the Synod, without any prejudice to the divine prerogatives of the primacy, allows, through collegial openness, to take into account the voice and feeling of the universal Episcopate, and to associate it more closely with the pastoral care of the whole Church.

17 We can refer to the words of Paul VI: "And what shall we say of the difficulty to which our separated brethren are always so sensitive: that arises from the function which Christ has assigned to Us in the Church of God and which Our tradition has sanctioned with such authority? The Pope, as we well know, is undoubtedly the most serious obstacle on the road to ecumenism" (PAUL VI, *Address to the Secretariat for Christian Unity*, March 28, 1967, in *Catholic Documentation* 1494 [1967], p. 870).

Part One

**THE DOCTRINE OF COLLEGIALITY
FROM VATICAN I TO THE PRESENT
THEOLOGICAL STUDY**

Chapter I

The state of the question at the first Vatican Council

The first Vatican Council produced two very important constitutions which remain monuments in the exposition of Catholic doctrine. The first, the Constitution *Dei Filius*, which deals essentially with the knowledge of God, Revelation, faith, and its relationship with reason¹⁶, was promulgated on April 24, 1870. The second, which is of special interest to us, *Pastor Aeternus*, which deals with the Church and her divine constitution¹⁷, was promulgated on 18 July 1870.

The object of this first chapter will be above all to identify the thinking of the Fathers and of the first Vatican Council¹⁸ on the theme of collegiality, and more particularly on the place and role of the Episcopate in relation to the supreme power of jurisdiction over the universal Church. We will first examine the text of the Council itself, but also the interventions of the Fathers, and the official explanations of the Deputation of the Faith; this conciliar commission had as main function to elaborate the texts and to respond to the proposals of the various amendments.

We will also look with special interest at the preparatory outline of the *Constitutio Dogmatica Secunda "De Ecclesia Christi"*¹⁹, which could not be discussed in the Council aula due to the interruption of the Council as a result of the outbreak of the war between Prussia and France.

Finally, we shall analyse with particular care what the authors call the *Relatio Kleutgen*, named after its editor Father Kleutgen, who had been entrusted with the task of drawing up the preparatory scheme for the *Constitutio Dogmatica Secunda*. This *Relatio Kleutgen*¹⁹ is in no way an

16 DS 3000-3045.

17 DS 3046-3075.

18 On the history of Vatican I, the reference work remains T. GRANDERATH, *Histoire du Conseil du Vatican* (French translation), A. Dewit, Brussels, 5 vols (1907-1913).

19 MANSI 53,317-332.

official text, but, recovered after the death of its author, it reflects the thought of the famous theologian who contributed so effectively to the smooth running of the Council's work.

I - DISCUSSION OF THE *PASTOR AETERNUS* CONSTITUTION

1 - 1. some historical background on the drafting of the constitution

As Carlo Colombo²⁰ explains in an article in *La Scuola Cattolica*, the First Vatican Council did not give any systematic official doctrinal teaching on the Episcopate in the constitution *Pastor aeternus*, and this may come as a surprise, even though the subject matter is precisely that of the Church of Christ. In fact, in the discussions which marked the elaboration of this Constitution the problem of the Episcopate was always present at the heart of the debates. The preparatory outline, a preliminary draft of the constitution *De Ecclesia*, prepared by the members of the theological commission, distributed to the Council Fathers on 21 January 1870, contained 15 chapters and 21 canons. The question of the Episcopate was not dealt with specifically, but several chapters contained ample allusions to it, with special mention of the infallibility of bishops, the power of bishops, and the power of the Pope in relation to that of the bishops, in chapters IX, X and XI respectively. The course of events was to change the order thus established, since it decided to set aside what concerned the prerogatives of the Roman Pontiff in order to make them the proper object of a constitution, and then to draw up a second constitution on the Church which would deal with the subjects voluntarily left out, especially that of the Episcopate.

The elaboration of the constitution *Pastor aeternus* from the preparatory outline *De Ecclesia* was the object of lively discussions between the supporters of the *Majority*, who were in favour of a rapid definition of the prerogatives of the Supreme Pontiff, especially his primacy and infallibility, and the supporters of the *Minority*, who were afraid of new definitions which would increase the monarchical aspect of the Church and could endanger the proper role of the bishops as well as of the *Episcopal Body as a whole*. Following a petition from a very large number of Council Fathers, the Deputation of Faith, the conciliar commission whose function was to draw up the constitution, was asked by the Pope himself to draw up a new outline which would be limited to the most urgent questions which were close to the

20 C. COIDMHO, *Il problema dell'episcopato nella costituzione e De Ecclesia - Catholica* del Concilio Valicano Un *La Scuola Cattolica* 89/5 (1961), pp. 341-372

hearts of the *Majority* Fathers notably primacy and infallibility. The final text of the constitution, much briefer in its statement and more modest in the scope of the subject matter than the preparatory scheme *De Ecclesia*, was thus composed of four chapters dealing successively with: the institution of the Primacy, its perpetuity, its nature, and, finally, the Pontifical Infallibility²¹.

1-2. Discussions on Chapter III and proposed amendments

During the general discussion of May 28, 1870, Bishop Papp-Szilágyi of Grosswardein in Hungary, of the Greek-Romanian rite, made an intervention in which he spoke in favor of the right of bishops. He tabled an amendment to affirm that the bishops, united and subordinate to the Roman Pontiff, the principal shepherd of the Lord's flock, share with him the solicitude of the whole Church, of which they are with him the legislators and judges, and that, consequently, the government of the Church resides in the Episcopate united to its first Head, the Sovereign Pontiff; in other words, that the government of Church is petro-apostolic²². His approach had an ecumenical character, for he was concerned not to close the door to the separated Orientals²³.

The Bishop of Gap (France), Mgr Guilbert, for his part, tabled an amendment on June 11, 1870, without further ado, in which he stated

"This divine power of primacy is not all the absolute power which Christ left to his Church. Indeed, in this total power participate the bishops themselves, successors of the Apostles, whom the Holy Spirit has also placed to govern the Church of God. Indeed, it was said to all the Apostles and to Peter with them, as well as to their successors, "*All authority has been given to me in heaven and on earth: go therefore and teach all nations*. The power of the Supreme Pontiff is in no way opposed to the power of legislators and judges of the faith which all the bishops exercise

21 The chapters of *Pastor aeternus* are respectively:

Capitulum 1: De apostolici primatus in Beato Petro institutione.

Capitulum 2: De Perpetuitate Beati Petri in Romanis Pontificibus.

Capitulum 3. De vi et ratione primatus Romani Pontificis.

Capitulum 4. De Romani Pontificis infallibili Magisterio.

22 MANSI 52, 604 C-D. "Haec tamen Romani Pontificis inter episcopos primatus potestas non excludit aut supprimit potestatem regiminis propriam episcoporum, qui positi sunt juxta Apostolorum a Spiritu Sancto regere Ecclesiam Dei; et ad hoc Spiritum Sanctum in consecratione episcopali obtinent (...), cum Summo Pontifice, sollicitudinem totius Ecclesiae sustinent, atque cum eodem Pontifice pro tota Ecclesia legislatores et iudices sunt; adeoque regimen Ecclesiae in episcopatu cum Summo Pontifice primatu suo consistit, seu regimen Ecclesiae est petro-apostolicum".

23 J. HAMER, *The Episcopal Body united to the Pope, its authority in the Church, according to the documents of the first Vatican Council* in *RSPT* 45 (1961), pp. 21-31.

jointly with the Successor of Peter in the universal Church, nor to the ordinary and immediate power of episcopal jurisdiction by which the bishops (...) shepherd and govern as true shepherds each one of the particular flock entrusted to him ("24 .

The essential part of Archbishop Guilbert's intervention is to promote this participation of the episcopate in the universal power of the Church, so that the Pope cannot possess it alone without his brothers in the episcopate. For him, the subject of power is the entire apostolic body, head and body.

This thesis had already found its theologian before the Council in the person of Bishop Maret, titular bishop of Sura and dean of the Faculty of Theology at the Sorbonne. In a famous work which had given rise to much controversy in France, *Du Concile général eide la paix religieuse, a memoir submitted to the next Vatican Ecumenical Council*, Maret had already expressed himself very boldly.

"The Church, we believe, is a monarchy effectively tempered with aristocracy (...). The Pope is, by divine right, the supreme head of the Church; the bishops, by divine right, participate, under his authority, in the general government of religious society. Spiritual sovereignty is thus composed of two essential elements; one principal, the papacy, the other subordinate, the episcopate("n .

During the Council itself, Bishop Maret did not fail to reiterate his thoughts and to make them more explicit during the various discussions²⁵ .

I - 3 The Response of the Deputation of Faith The Zinelli Report

It was only natural that after hearing the proposed amendments, the Faith Delegation²⁶ should take them into account by inserting them into the text or

24 MANSI 52, 620 C; cf. also MANSI 52, 1092 B-C. "Illa tamen divini primatus potestas non est tota et absoluta potestas, quam Christus Ecclesiae suae tradidit. Siquidem hujus totius potestatis participes sunt ipsimet episcopi. Apostolorum successores, quos quoque Spiritus Sanctus posuit regere Ecclesiam Dei. Dictum est enim omnibus Apostolis et Petro conjunctim, eorumque successoribus : *Data est mihi omnis potestas in caelo et in terra (...)* Accipite Spiritum Sanctum (...). Tantum igitur abest, ut Summi Pontificis potestas opponatur sive illi episcoporum potestati, quam in universa Ecclesia omnes conjunctim cum Petri successore exercent ut legislatores et fidei judicer; sive illi ordinariae et immediatae episcopalis jurisdictionis potestati, qua episcopi (...) tamquam veri pastores assignatos sibi greges singuli singulos pascunt et regunt (...)" .

25 See MANSI 51, 916-917 and 52, 432 D-433 A.

26 "The *Deputation of Faith* is that commission composed of 24 elected members, headed by Cardinal Bilio, president of the former theological-dogmatic commission. Several theologians of the latter commission were also chosen as consultants to the new deputation and this ensured the necessary doctrinal continuity between the preparatory work and the actual conciliar work; the task of the Deputation of Faith was to perfect, sometimes to recast, according to the amendments of the Fathers, the projects which the Council proposed to define, a

reject them after weighing their value and appropriateness. A report on the amendments, prepared by the Faith Delegation, was to explain the motives behind the treatment of the proposed amendments in such a way as to clarify the understanding of the text and remove any ambiguity. The rapporteur, Archbishop Zinelli²⁷, gave a lengthy explanation of Chapter III on 5 July 1870.

Whether the government of the Church is called petro-apostolic in the manner of Archbishop Papp-Szilagyi or composed monarchy Archbishop Maret understands it, it always amounts to denying that the Pope alone can possess this supreme power. Now, since one of the objectives of the First Vatican Council was precisely to define the full and supreme power of jurisdiction of the Roman Pontiff over the universal Church, Archbishop Zinelli, in direct response to these last two speakers, Archbishop Papp-Szilagyi and Bishop Guilbert, had to give a reasoned explanation in which, without denying that the bishops participate in the government of the universal Church, he contests that this entails as a necessary consequence that the person of the Pope united to the *Episcopal Body* is the sole subject or compound subject of the supreme power.

The rapporteur of the Faith Delegation explains that both interventions reflect a common thought, namely that all the supreme power of the Church does not reside in the Roman Pontiff but in the Roman Pontiff united with the bishops. We quote the main passages from Archbishop Zinelli's report²⁸ :

For from all these sources of Revelation it appears that to Peter and his successors full and supreme power was given in the Church, so that it could not be limited by any human power superior to it, but only by natural and divine right. It follows from this that it is vain and futile (forgive me the word) to make such claims, which are difficult to take seriously, that if the Pope were given full and supreme power, he could destroy the episcopate, which is of divine right in the Church, he could overturn from top to bottom all the canonical decisions wisely established by the Apostles and by the Church; As if all moral theology did not proclaim that the legislator himself is subject to his laws, if not in their binding force, at least in their preceptive force; as if orders that are obviously unjust, harmful or damaging could impose any obligation if it²⁹ to avoid scandal²⁹

After affirming the full and supreme primacy of the Pope's jurisdiction

satisfactory draft was arrived. P. TORRELL, *The Theology of the Episcopate in the First Vatican Council*, Coll. *Unam Sanctam* 38, Les Éditions du Cerf, Paris, 1961, p. 321).

²⁷ Bishop ZINELLI (1808-1880), bishop of Treviso since 1861, was responsible for the report on the amendments to Chapter III. This report, made in the name of the Deputation of Faith of which he was a member, is one of the major sites for the theology of the episcopate at the First Vatican Council.

²⁸ N. B. We will base the French translation of the texts whose original is in Latin in the Mansi collection, on that used by Father J. P. Torrell in his work *La théologie de l'épiscopat au premier concile du Vatican*, even if it means making a few corrections of detail.

²⁹ MANSI 52, 1108 D-1 109 A.

over the universal Church, the rapporteur continues by addressing the theme of the Apostles and their successors:

♦But perhaps the reverend Fathers will ask: Is not the supreme and entire power also in the Ecumenical Council, did not Christ promise his presence to all the Apostles? Did He not say to them, *Whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven?* He not say other things to them, by which it is clear that he wished to entrust to his Church the supreme and complete power? We willingly concede this"³⁰.

then that Bishop Zinelli developed his argument highlighting the role of the episcopate in the exercise of supreme power. We take the liberty of quoting in bold type the most significant expressions of his report in relation to the theme that concerns us³¹.

"These two powers, **moreover, can coexist** amicably without the dualism which breeds confusion being introduced into the Church. This latter inconvenience would occur if two really full and supreme powers were admitted, distinct and separate; but to separate the head from the members is the proper thing of those who submit the Pope to the bishops collectively taken or represented by the General Council. Then, indeed, it might sometimes follow that the Pope is on one side, even in his capacity as Supreme Pontiff, and the bishops on the other. **We, on the other hand, admit that the truly full and supreme power resides in the Sovereign Pontiff in his capacity as head, and that this truly full and supreme power is also to be found in the head united to its members** (provided that what we have established above remains safe and unshakeable). In this way, there can never be a case in which the bishops are separated and torn from their heads. For if the Supreme Pontiff exercises his truly full and supreme power in his capacity as head and even independently of the concurrence of the others, all the members must immediately agree with their head and not arrogate to themselves (the right) to judge the exercise of such power. Otherwise, they would not recognize in him this truly whole and supreme power"³².

It is therefore the clearest affirmation of the existence of a Primate of jurisdiction in the whole of the *Episcopal Body* united to its head, even if we do not find the words *College* or *collegial power*³³ in the text of Mgr Zinelli.

30 MANSI 52, 1109 B.

31 In the rest of our work, we will apply ourselves in the quotations to use bold characters, to underline an expression or a word that should be emphasized, to distinguish them from italic characters that are integral parts of the quotation.

32 MANSI 52, 1109 D-1 110 A.

33 The words *College* or *collegial power*, which cover the reality described by Archbishop Zinelli, would not be consecrated until a century later during the Second Vatican Council in the constitution *Lumen Gentium*.

If, on the other hand, the Supreme Pontiff, in union with the bishops, whether dispersed or gathered together, exercises in solidarity (with them) his truly complete and supreme power, can be no clash. For since the truly full and supreme power is not found in the body separated from the head, if the Pope is lacking, the isolated bishops, however numerous, can in no way exercise this sovereign power without their head. Whereas, as we have said, the Supreme Pontiff in his capacity as head, even independently of the concurrence of the bishops, can exercise his supreme authority"³⁴.

Finally, Archbishop Zinelli makes it clear that his statement has an official character by virtue of the very role and competence of the Deputation of the Faith of which he is the spokesman and in whose name he speaks. It is not the opinion of a private theologian, nor even that of a conciliar Father among others. This statement was made to explain and motivate the meaning of a vote proposed to the Fathers.

♦ It is not necessary to develop these principles, I must rather beg the pardon of this venerable assembly for having dwelt so long on this reasoning; it was absolutely necessary in order that the grave reasons which induced the Faithful Deputation to reject the proposed amendments might be made manifest. They contained, against the intention of their authors, some rather dangerous conceptions"³⁵.

1*4. Theological evaluation

According to Father Torrell^{ey36}, it was aberrant for the authors of the scheme on the Church to deny the Pope the fullness of power that came from the very institution of Jesus Christ, Author and Founder of the Church. This is the fundamental affirmation that the *Majority* cheques are keen to promote in spite of all obstacles. Faced with the claims of the minorities, Bishop Zinelli recognizes^{naït} that the bishops united with the Pope are indeed subjects of the supreme power. This is all the more difficult because, despite the tendentious interpretations of some, it is an unquestioned doctrine. What the Deputation of Faith rejects is not this truth, but the refusal to recognize that the Pope alone, even without the bishops, is also subject to this supreme power, which he can always exercise independently of the concurrence or consent of the episcopate.

Significant in this connection is the insertion in the canon at the end of Chapter III³⁷ of the phrase: *or that the Supreme Pontiff has only the greater*

2LMAKSI 52,1110 B.

35 MANSI 52,1110 B.

t loKRHi. *La théologie de l'épiscopat*, Coll. *Unam Sanctam* 38, Les Éditions du Cerf, Paris, 1961, pp. 154 & seq.

37 Chapter III ends with a canon which anathematizes the opponents of papal primacy. We quote it in extenso: "Si quis itaque dixerit, Romanum Pontificem habere tantummodo

part, but not the entire plenitude of this supreme power The Supreme Pontiff is not to be seen as the principal element of a College in which he possesses only the greater part of the power (*tantum potiores partes*), but he is to be regarded as the first possessor of the whole plenitude of this supreme power (*totam plenitudinem huius supræmes potestatis*), as the principle and foundation of the imity of this College, to which his eminent dignity gives an absolutely special place.

Once it has been peremptorily affirmed that the fullness of supreme power resides in the Pope, the reporter makes no difficulty in recognizing the participation of the bishops in the government of the universal Church. The Council under the presidency of the Pope is also the subject of the *potestas vere plena et suprema*. And this is in no way called into question by the incision added to the canon which concludes chapter III which we have just mentioned. It is well known that this incision in the canon: *or that the Supreme Pontiff has only the greater part, but not the full plenitude of this supreme power*³⁸ was the occasion of a lively debate. It is not superfluous to recall the words of Archbishop Zinelli on the occasion of the 84th General Congregation of July 11, 1870, in which he specifies how the fullness of the power of jurisdiction in the Sovereign Pontiff is reconciled with that of the Ecumenical Council. We quote some excerpts from it:

no reason to doubt the fullness of the power of jurisdiction which belongs to the Roman Pontiff in all its extent, nor to have the slightest scruple, as if, by attributing to the Sovereign Pontiff all the fullness of the power jurisdiction, we could in some way harm the dignity of the Ecumenical Council. Indeed, the explanations I gave in the last General Congregation concerning the full and supreme power of the Ecumenical Council remain valid. With all the conditions and explanations of which I have spoken, this doctrine, rightly understood, remains the only one compatible with the Doctrine of the Faith, which confesses the total fullness of supreme power in the Supreme Pontiff²⁰.

Bishop Zinelli had already responded on July 5, 1870 to an amendment proposed by Bishop Dupanloup as follows:

<- It follows from the very nature of primacy that power enjoyed by the Supreme Pontiff extends not only to the bishops taken separately but also to the whole, since, according to all Catholics, it belongs to the Supreme Pontiff to convoke General Councils, to preside over them, to confirm them. In such a way that, if confirmation is lacking, the Councils are worthless. It is clear, therefore, that the power of the Pope extends

officium inspectionis vel directionis in universam Ecclesiam, non solum in rebus, quæ ad fidem et mores, sed etiam iis, quæ ad disciplinam et regimen Ecclesiæ per totum orbem diffusæ pertinent; aut eum habere tantum potiores partes, non vero totam plenitudinem huius supræme potestatis; aut hanc ejus potestatem non esse ordinariam et immediatam sive in omnes ac singulas Ecclesias sive in omnes et singulos pastores et fideles: anathema sit.

not only to pastors individually but also collectively"³⁹.

Thus the superiority of the Pope over the Council is once again implicitly affirmed, as had already been declared in numerous documents of the Magisterium, especially the Councils of Florence⁴⁰ and Lateran V⁴¹. As explained by U. Betti in his work⁴² *La Costituzione dogmatica < Pastor aternus > dei Concilio Vaticano Z*, and J. P. Torrell in *The Theology of the Episcopate in the First Vatican Council*⁴³ it is clear that it is not possible to conceive of the slightest part of ecclesiastical power that is not also at the same time that of the Pope. And so the specification that the Pope does not simply have the principal part of this power is nothing other than a clarification of the concept already used of plenitude of power. There is no question, then, of considering the Pope's *potestas* of jurisdiction as tempered by another *potestas* on the pretext of exalting and defending the rights and *potestas* of the bishops.

We can see the capital importance of the rectification made by Archbishop Zinelli to the global conception of the *Minority*. It is true, of course, that one cannot separate the Pope from the episcopate, the head from the body, but the reverse is also true: one cannot separate the episcopate from the papacy, following the example of the minorities of the First Vatican Council who would like to subject the Pope to the Council, the head to the judgment of its members. Without the Pope, the gathering of bishops is no longer the supreme authority of the Church, but a mere collection of isolated authorities, eminent perhaps because of their personal qualities, but which do not even add. Without the Pope, the College of Bishops is no longer an organic whole, but an acephalous assembly, a headless body.

There is no longer any possible conflict of jurisdiction between the Pope and the Council or the Pope and the episcopate; first, because in the event of a dispute the episcopate can avail itself of no authority over the Supreme Pontiff and must submit; second, because it is impossible for the Pope to be separated from the Church in a solemn act of his supreme primacy. The authority of the Pope alone and the authority of the College of Bishops united to the Pope are

39 MANSI 52, 1106 B.

40 Cf. Decree *Moses vir Dei* (1309); the following proposition was condemned: "Veritas de potestate Concilii Generalis universam Ecclesiam repraesentantis supra Papam et quemlibet alterum declarata per Constancianse et hoc Basiliense Generalia Concilia, est veritas fidei catholicae."

41 Cf. Bull *Pastor aurnus gregem* (DS 1445): "solum Romanum Pontificem pro tempore existentem tamquam auctoritatem super omnia Concilia habentem, Conciliorum indicendorum transferendorum ac dissolvendorum plenum jus et potestatem habere, nedum ex Sacris Scripturae testimonio, dictis Sanctorum Patrum ac aliorum Romanorum Pontificum etiam, praedecessorum Nostrorum, sacrorumque canonum decretis, sed propria etiam eorumdem Conciliorum confessione manifest constet..."

42 Cf. U. Betti, *La costituzione dogmatica - Pastor aeternus* dei Concilio Vati- cano I, Pontificio Ateneo Antonianum, Roma, 1961, pp. 315-316.

43 Cf. J. P. TORRELL, *op. cit.*, pp. 157 & seq.

not They are not two distinct authorities, but the same and unique *potestas vere plena et suprema* exercised in two different modes: on the one hand, in the head of the Church, and on the other, in the body united to the head. When the Pope alone promulgates an act of his supreme authority, he acts at that moment as the head of the Church (*ut caput ecclesie*), and it is impossible that he should not express the mind of the Church; on the other hand, when the *Episcopal Body* united to the Pope, when the body united to the head carries out a similar act, it is quite inconceivable that the slightest dispute should arise since they are acting together. Otherwise, it would be to say that the Pope is in contradiction with himself⁴⁴.

This document, which obviously does not impose itself on the faith of the faithful, since it is not a conciliar text, is nevertheless of particular importance. As Father Jerome Hamer says: "*It is true that in this matter and on this occasion, Bishop Zinelli can be considered a privileged and particularly authoritative witness to the thinking of the Faith Commission and also, although to a lesser extent, to that of the conciliar assembly*"⁴⁵.

44 Cf. J. P. TORRELL, *op. cit.*, p. 157.

45 J. HAMER, *The Episcopal Body united to the Pope, its authority in the Church, according to the documents of the first Vatican Council* in *RSPT* 45 (1961), p. 24. It is understandable why the text of the constitution *Lumen Gentium* in connection with number 22 on the exercise of episcopal collegiality made a point of referring to this declaration and its location in the Mansi Collection.

II - FATHER KLEUTGEN'S DIAGRAM

As we have already explained in the previous paragraph, the constitution *Pastor aeternus*, which bears the title of the first constitution on the Church of Christ, was to be followed by a second constitution^M, which, due to the international situation and the imminence of war, could not be discussed in the conciliar aula. *outline of the second constitution on the Church of Christ, recast according to the observations of the Reverend Fathers* often called the *Kleutgen Outline*, after its author.

This document, which was found in the personal and autograph papers of Father Kleutgen after his death, remained unpublished until 1927, when the publishers of the Mansi Collection published the text. When it was brought to the attention of theologians, it aroused an interest that has continued to grow ever since.

Genesis and presentation of the scheme

II - L 1. Father Kleutgen

According to the biographical information gathered by J. P. Tor- reU⁴⁶, Joseph Kleutgen (April 9, 1811 - January 13, 1883) after studying at the German faculties of Munich, Münster and Paderborn, entered the Society of Jesus in 1834. He lived in Rome for most of the rest of his life, where he was, among other things, secretary of the Society for six years, and then professor of eloquence at the Germanicum for another six years. Finally, he was entrusted by Leo XIII with the regency of studies and the teaching of dogma at the Gregorian. He contributed greatly to the elaboration of Leo XIII's encyclical *Aeterni Patris* on Christian philosophy. This pope called him the *princeps philoso-*

phorum and the great German theologian Scheeben spoke of him as *Thomas redivivus*.

Introduced to the Council as Bishop Martin's private theologian, Father Kleutgen demonstrated his remarkable skills in providing valuable assistance to Bishop Martin had been asked the Deputation of Faith, together with Bishop Pius and Bishop Deschamps, to recast Franzelin's first *De Fide Catholica* - outline. He successfully completed this work, which was greatly appreciated, and thus contributed effectively to the final elaboration of the *Dei Filius* Constitution as we know it today.

II - 1.2. Preparation of the scheme

⁴⁶ See J. P. TORRELL, *op. cit.* note 2, p. 248.

Father Kleutgen played a remarkable role in the drafting of the *Pastor aeternus* constitution. In the Faith Delegation, he was the rapporteur for the proposed amendments to the text of constitution. He can be seen commenting on a draft chapter on the definition of infallibility⁴⁷, and he was also the rapporteur for the amendments to chapters I and II⁴⁸, chapter III⁴⁹ and finally chapter IV⁵⁰.

As Father Torrell explains⁵¹, his work during drafting of the constitution *Pastor aeternus* gave him a very thorough knowledge of the thought of the Fathers, whose suggestions he examined in order to give an account of them to the Deputation, as well as of the thought of the latter, which had to refine its text as a result of the various criticisms. The outline which we are now going to study is thus of precious value because of the exceptional place which the author assumed during the discussions and during the final drafting of the *Constitutio "De Ecclesia Prima"*. It was conceived in direct relation and in perfect continuity with all the preceding works, by a penetrating man who had participated from within in the work of the Council. For Father Jerome Hamer, Father Kleutgen's scheme is: *the least distorted echo we have of the common convictions of a very considerable part of the assembly at the moment of its separation*⁵².

It should also be noted that the Second Vatican Council seems to have widely recognized the theological competence in ecclesiology of the author of this diagram, since his name is cited three times in the notes of the official text of the constitution *Lumen Gentium*⁵³.

11 - 2. the scheme itself

Kleutgen's draft had ten chapters that were considerably longer than those corresponding to them in the first outline of the constitution *De Ecclesia*. Note that Chapter I deals with the divine institution of the Church, Chapter II seeks to demonstrate that *the Church was instituted by Christ as an assembly of the faithful*, Chapter III addresses the existence of a divinely instituted power in the Church by virtue of which some have been given the charge of *sanctifying*,

47 MANSI 53, 259 B.

48 MANSI 53, 263 D.

49 MANSI 53, 264 C.

50 MANSI 53, 270 D, 272 B, 273 D, 275 B.

51 Cf. J. P. TORRELL, *op. cit.*, p. 249, "One would hardly find a man more aware of the exact scope of *Pastor aeternus* and of the common thought of the Council Fathers, opponents or supporters of the definition".

41 J. HAMER, *The Episcopal Body united to the Pope, its authority in the Church, according to the documents of the first Vatican Council* in *RSPT* 45 (1961), p. 25.

53 Cf. *LG* 22, 25, 62.

teaching and governing⁵⁴.

Finally, chapter IV, which is of particular interest to us, deals with *the ecclesiastical hierarchy*. The place reserved for the bishops and the episcopate in general is preponderant. The first paragraph of this chapter aims to show that the Church is established on the bishops and that all its action is directed by its pastors⁵⁵. The second and third paragraphs of this chapter deal specifically with the collegial power of the bishops united to the Pope. It will be the subject of our analysis.

The following chapters (V to X) deal successively with the theme of the members of the Church, the question of the necessity of belonging to the Church for salvation, the ecclesiastical Magisterium, jurisdiction of Church, the immutability and indefectibility of the Church until the end of time, and the identification of the true Church of Christ with the Roman Catholic Church⁵⁶.

Let us return to the last two paragraphs of chapter IV of the *Kleutgen Outline*. After affirming in the first paragraph that *only the bishops, each in his own diocese, or assembled in synod, decide on doctrine and discipline, make laws, exercise justice (...)*, Father Kleutgen presents the link between the episcopate and the universal Church:

"But the bishops are not excluded from the supreme charge of teaching and governing the universal Church. Indeed, this power to bind and loose, which was given to Peter alone, was also given to the College of Apostles, united nevertheless at their head, evident from the Lord's affirmation: "Truly I say to you, whatever you bind on earth will be considered bound in heaven, and whatever you loose on earth will be considered loosed in heaven" (Mt 18:18). Therefore, from the earliest times of the Church, the definitions and decrees of the Ecumenical Councils were rightly received by the faithful with perfect veneration and equal submission as judgments of God and decrees of the Holy Spirit"⁵⁷. It is thus clear that the bishops are associated with the supreme teaching and governing office of the universal Church. The Latin text says: *Verum etiam supremi muneris docendi et gubernandi universam Ecclesiam episcopi expertes non sunt*. This is a very important statement; it shows, without making explicit either the details or the modalities, the role of the *Episcopal Body* united to its head in the task of shepherding the whole flock of Christ. The schema speaks of the College of Apostles as the depository of the Lord's promise, and immediately follows with the decrees and definitions of the Ecumenical Councils. For Father Kleutgen, the text of *Mt, 18; 18* is the scriptural foundation of the role of the bishops in relation to

54 MANSI 53, 308 B-310 A.

55 MANSI 53,310 B: "ut ecclesia super episcopos constituatur, et omnis actus Ecclesiae per eosdem praepositos gubernetur".

56 MANSI 53,310 D-316 A As is recognized, all these themes were largely taken into account and set out in the Second Vatican Council's constitution *Lumen Gentium*.

57 MANSI 53, 310 B-C.

the universal Church⁵⁸. Then, in the third paragraph, he continues by reaffirming the doctrine of the pontifical primacy, which is also exercised over the pastors, both over each one in particular and over the whole *Episcopal Body*.

Since the primacy was given to Peter in order to show one Church and one pulpit, the other pastors are subject to the Roman Pontiff, either each in the administration of his own Church, or all together in the administration of the common affairs of the Church. For it belongs to the sovereign hierarchy to institute new Churches, to circumscribe other limits those already instituted, or even to abolish them altogether, to choose his own pastors for each of these Churches, or, if they are elected, to confirm them, increase or restrict even their ordinary power, to judge of the acts of each one, as well as of the acts of the synods, and, where necessary, to remove the pastors themselves from their office. **These cannot dispose or decree anything concerning the universal Church unless they have been called by the reigning Pontiff to share his solicitude; and although, assembled by him, they bear dogmatic decrees and disciplinary laws as true judges, yet it belongs to the Roman Pontiff not only to convoke or dissolve their General Councils but also to direct and confirm them.**⁵⁹

One notices in this schema the care taken not to upset the balance between the affirmation of the primacy of the Pope's jurisdiction and the participation of the bishops in the pastoral care of the universal Church. Care is taken to avoid any conciliarist interpretation of the role of the episcopate in relation to the universal Church and not to call into question its complete subordination to the person of the Supreme Pontiff.

It - 3. theological evaluation

Kleutgen's Scheme is based on a good summary of the positions of a large majority of the Fathers. Since it was not discussed *ex professa* in the conciliar *aula* it cannot claim any magisterial authority. Nevertheless, it is very interesting for evaluating the thinking of the Council Fathers on the question of the relationship between Primate and Episcopate. We shall retain the following points:

1 - The text affirms that the bishops are not excluded from the supreme task of governing the universal Church; it is thus clear that the task of shepherding the flock of Christ is not exclusive to the Roman Pontiff but that the bishops participate in it. This participation remains to be clarified, but the

⁵⁸ This reference will be taken up by *Lumen Gentium* 22 in the exposition of the doctrine of collegial supreme power.

⁵⁹ MANSI 53,310 C-D.

comments of Archbishop Zinelli in his *Relatio* are taken into account here so as to associate the *Episcopal Body* with the government of the universal Church.

2 The motive put forward by the schema to justify this participation of the bishops in the government of the universal Church is the attribution to the *College of Apostles united to their head*⁶⁰, of that same power given to Peter implicitly deduced that, the power of Peter was transmitted to his successors, so the power of the *College of Apostles* united to Peter is transmitted to the *Episcopal Body* united to its head, the Supreme Pontiff.

It is not unhealthy to recall the questions raised by two Council Fathers about the Faith Commission discussion of the first chapter of *Pastor Cetermus*. Bishop Moreno of Ivrea and Cardinal Schwarzenberg, Archbishop Prague, had expressed their astonishment at the fact that no mention was made of the Apostles in the proposed text, even though the scriptural foundations alleged in favour of the Primate of Peter could apply equally to the other Apostles⁶¹. The response of Bishop d'Avanzo, the rapporteur of the Faith Delegation, is of special interest because it goes to the heart of the matter by revealing in advance what the 2^{ème} Constitution was to deal with in more detail. Quoting Pope Innocent III's letter *Apostolices Sedis*, the rapporteur says

"What is said to Peter is addressed to him personally, to the exclusion of others; what is said to others is addressed to them in their union with Peter. Accordingly, power is given to him in such a way that it cannot be the prerogative of others without him, but that he himself can claim it apart from others, by reason of a privilege conferred upon him and the fullness of power granted to him"⁶².

We can therefore see that the *Kleutgen Scheme* is a faithful echo of the thinking of the Deputation of Faith expressed through the mouth of Bishop d'Avanzo. G. Dejaifve, in an article published in 1960 in *the Nouvelle Revue Théologique*, regrets, however, that the scheme does not go further in the direction of the collegial participation of the bishops in the primatial power of the Pope:

"Let us gather these details which we regret not having been able to

60 MANSI 53,310 C: "Illud enim ligandi et solvendi pontificium, quod Petro soli datum est, Collegio quoque Apostolorum, suo tamen capiti conjuncto, tributum esse constat, protestante Domino: *Armen dico vobis, quacumque alligaveritis super terram, erunt ligata ei in calo; et quacumque solveritis super terram, erunt soluta et in calo* (Mt 18,18).

61 MANSI 52,703 C. Cardinal Schwarzenberg expressed himself thus: "Probatio primatus Petri ex textu apud Mt 16,18-19, tunc demum solide et contra obiectiones tute conficitur, si simul exponitur, in qua relatione fundamentum Petri ad fundamenta omnium versatur Apostolorum, super quod, testante S.Paulo (Eph 2) aedificatisunt fideles, et quomodo Petri potestas solvendi et ligandi ad similem omnium Apostolorum potestatem (Mt 18) se habeat"

62 MANSI 52, 714 A: "Petro dictum est sine aliis et non aliis sine Petro, ut intelligatur sic ei attributa potestas huiusmodi, ut aliis sine ipso esse non possit, ipsi sine aliis esse possit ex privilegio sibi collato et ex concessa sibi plenitudine potestatis.

insert in the chapter: Peter has received from Christ the fullness of apostolic power, but he cannot, he must not even exercise it through other auxiliaries than through those obliged collaborators, the other Apostles who have received the same pastoral mission over the whole flock Christ, in union with him, under his dependence"⁶³ .

He even adds in this article:

"If this is so, is it not clear that the major grievance addressed by the Fathers to the whole constitution and which we recalled above is well founded: you cannot define the Primacy of the Pope without including the collegial aspect which it assumes in its exercise and which is only the faithful reflection of the relations between Peter and the Apostolic College"⁶⁴ .

3 - Father Kleutgen, in his diagram, gives the Ecumenical Councils as a convincing example of the participation of the bishops in the power of jurisdiction over the universal Church. Their decrees are rightly received *by the faithful as judgments of God and decrees of the Holy Spirit*⁶⁵ . He further affirms that they *bear dogmatic decrees and disciplinary laws as true judges*⁶⁶ . These assertions underline the truly exceptional place given to the episcopate as a whole and to each of the bishops in particular when it is a question of a decision concerning the universal Church. The part taken by each of them in a decision of this type is full and complete, without any possible division, even if the approval or confirmation of the Supreme Pontiff is absolutely necessary. They are not mere assessors or advisors, but are truly judges with a decisive role. It is customary in the publication of decrees issued by Ecumenical Councils to begin the decisive chapters with the incise *sacro approbante Concilio* (with the approval of the Holy Council), and the Constitution *Dei Filius*⁶⁷ published by Pius IX specifies *sedentibus Nobiscum et iudicantibus universi orbis episcopis* (with the bishops of the whole world sitting and judging with me), as if to underline the fundamental role played in the elaboration of the text by all the bishops who sit and judge with the Supreme Pontiff. Moreover, it is customary for each of the Bishops to sign the conciliar acts after the promulgation of the Supreme Pontiff with the traditional formula: *Ego definiens scripsi* (what I have decided and written, I sign).

4 The pastors of the Church remain subject to the authority of the Successor of Peter, whose authority over each of the bishops and the *Episcopal Body as a whole* always remains full and complete. The initiative for the

63 G. DEJAIFVE, *Le Premier des évêques* in *Nouvelle Revue Théologique* 82/6 (1960), p. 568; cf. also A. MICHEL, *Épiscopat et Primauté romaine* in *T Ami du Clergé* 71/12 (1961).

64 G. DEJAIFVE, *op. cit.* p. 568.

65 MANSI 53,310 C.

66 *Ibid.* 53,310 C.

67 See DS 3000.

participation of the Bishops in the government of the Church always belongs to the Roman Pontiff Only if he calls them to share his solicitude for the universal Church can they really dispose or decree anything for the benefit of the latter. Finally, in the case of a General or Ecumenical Council, it is for him to convoke, dissolve or confirm its decrees, without which all the decisions of that Council would be null and void.

5-11 It is likely that the reason the outline of the second constitution on the Church does not use the word *college* to refer to the body of bishops wholely because of the egalitarian overtones that such a word had in the minds of many of the Fathers. It should not be forgotten that the first outline of the Constitution on the Church, presented on 21 January 1870 in the conciliar aula, repudiated use of the word *college* to speak of the Body of Bishops, and that a canon had been provided to repel any egalitarian tendency might have considered the person of the Supreme Pontiff as *aprimus inter pares*.

Thus : *If anyone says that the Church is not a perfect society, but is a college; (...) let him be anathema*⁵¹ .

Another canon, aimed especially at bishops, also condemned egalitarianism in the ecclesiastical hierarchy: *If anyone says that the Church was divinely instituted as a society of equals (...), let him be anathema*⁵³ .

A more detailed and profound appreciation of this scheme can be gained by reading the explanatory report of Father Kleutgen himself. The theological details and the motivations which prevailed for the realization of the scheme are abundantly explained

57 . Canon X, MANSI 51, 552 A: "Si quis dixerit Ecclesiam non esse societatem perfectam, sed collegium; aut ita in civili societati seu in statu esse, ut szulari dominationi subiciatur, anathema sit".

58 . Canon XI, MANSI 51, 552 B: "Si quis dixerit Ecclesiam institutam divinitus esse tamquam societatem aequalium (...) anathema sit"

III - THE RELATIO KLEUTGEN

This *Relatio*, as we have already said, is nothing other than an explanatory relation joined to the schema of the *Constitutio Secunda "De Ecclcsia Christi"*. It appears in the Mansi collection, under the title of *Joseph Kleutgen relatio de schema reformata*⁶⁸ following the schema to

68 MANSI 53,317 B-322 C.

which it is indissociably attached. In fact, it makes it possible to better define the theological validity of the doctrine affirmed in the schema of which we spoke previously. The conditions of its discovery and publication are the same as for the schema itself⁶⁹.

DI - 1. The content of the *Relatio Kleutgen*

By means of a personal translation from the original we intend to set out that part of the *Relatio* which deals explicitly with chapter IV of the schema. Its doctrinal clarity and theological richness have been well recognized⁷⁰, so much so that the conciliar text *Lumen Gentium* cites it as a note in chapter 22 on the collegial power of bishops

RI - 1.1 Divine Institution of the Episcopate

◆ There is no doubt, indeed, that the episcopate is of divine institution. And it is instituted not only that the bishops may sanctify the Church of God, but also **that they may govern**. Thus, even though they receive jurisdiction by election or confirmation from the Roman Pontiff, this jurisdiction is nevertheless proper and ordinary to their office. Although the Supreme Pontiff may make the bishop of a given Church

The divine constitution of the Church includes not only a Supreme Pontiff who assumes the office of pastor of all the faithful, but also a body of bishops succeeding the College of the Apostles, who govern the Church with a proper and ordinary power (...)”⁷¹. The divine constitution of the Church includes not only a Supreme Pontiff who assumes the office of pastor of all the faithful, but also a body of bishops succeeding the College of Apostles, who govern it, each having responsibility for a portion of whole flock entrusted to Peter and his successors. The Constitution *Pastor aeternus* had already recalled the unity and

69 We refer you to what we said about this in paragraph II.

70 Cf. U. BETTI, *La costituzione dogmatica "Pastor aeternus" del Concilio Vaticano II*, Pontificio Ateneo Antonianum, Roma 1961, p. 610; G. DEJAIFVE, *La Collégialité épiscopale dans la tradition latine in l'Église de Vatican II*, Tome III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, 1966, p. 885; G. GoNZALiS, *Article e Primacy" pTC*, vol. XI, col. 341-344; J. HAMER, *Le Corps Épiscopal uni au Pape, son autorité dans l'Église, d'après les documents du premier conseil du Vaticanin PSPT* 45 (1961), PP. 24-27; G. PHILIPS, *L'Église et son mystère*, Tome I, Desclée, Paris, 1967, p. 301; J. RAI^INGER, *La collégialité épiscopale. Développement théologique*, in *L'Église de Vatican II*, Tome III, Coll. *Unam Sanctam* Sic, Les Éditions du Cerf, 1966, p. 779; J. P. TORREIX, *La théologie de l'épiscopat*, Coll. *Unam Sanctam* 38, Les Éditions du Cerf, Paris, 1961, pp. 257-265.

71 MANSI 53, 321 A.

indivisibility of the episcopate⁷², and the existence of an ordinary and immediate episcopal power of jurisdiction⁷³, distinct from the supreme power.

III - 1. 2. Doctrine on the participation of the Episcopal Body in the government of the universal Church.

Father Kleutgen then explains what constitutes the core of his argument: since, on the one hand, the bishops in union with the Supreme Pontiff have a share in the government of the universal Church and since, on the other hand, the Supreme Pontiff possesses the fullness of supreme power, it follows that this power is found in a double subject

What is stated in Chapter IV concerning the part played by the bishops in the government of the universal Church and the authority of the Ecumenical Councils does not in itself give rise to any difficulty. Since the bishops, called by the Supreme Pontiff to share his solicitude, are not mere advisors, but since, united to the Pope, they issue decrees as true judges and definitors, and since these decrees, thus emanating from the supreme authority, bind the whole Church, **it cannot be doubted that the bishops have a share in the government of the universal Church**. But since it is no less evident - and this was defined in Canon III of the first Constitution *De Ecclesia* - that the Supreme Pontiff possesses not only the greater part but the whole plenitude of supreme power, it must be concluded **that this power is to be found in a double subject: in the Body of Bishops united to the Pope and in the Pope alone**⁷⁴.

M ~ A 3. Continuity of this doctrine with information from the great theologians

"This seems difficult, but it is not new. It was commonly admitted by those who defended the superiority of the Pope over the Council during the controversy raised by the Councils of Constance and Basel. Let it suffice to quote Bellarmine: *Those who teach that the Pope is superior to a Council celebrated without him are the same who teach that there is equal authority as to intensity (intensive authority) in the Pope alone and in the Council united to the Pope, though from the point of extension (extensive authority) it is greater in the Council. Therefore, the Pope cannot be judged or condemned by such a Council because an equal has no power over an equal* (Bellarmine, *de Cone.*, 1. 2, c.13)⁷⁴.

III - 1. 4. Consistency of this doctrine with that of the primatial power of the Pope

72 See DS 3051.

73 See DS 3061.

74 MANSI 53, 321 B-C.

There is no danger of harming the primatial power of the Supreme Pontiff, according to Fr. Kleutgen, because the Body of Bishops without the Pope cannot decide anything. Thus he says:

In reality, some people are opposed to this position because they think that these two subjects of power are to be conceived separately: on the one hand the Pope, on the other the Body of Bishops. In these circumstances, if the Body of Bishops were to think differently from the Pope, the concord and unity of the Church would be effectively called into question, since the same supreme power would be fighting on both sides. But, as has already been said, supreme authority is not attributed to the Body of Bishops *simpliciter*, but to the Body of Bishops united to the Pope. Between the Pope alone and the Pope with the Council, there can be no struggle or discord. If the bishops alone, gathered in a council, even if legitimately convoked, were to issue a decree which the Supreme Pontiff did not approve, a decree of this kind would not be a sentence of the supreme power. And if the Supreme Pontiff not only did not approve the decree but ruled the contrary, as happened at Ephesus II and Constantinople under Adrian I^{er}, the bishops would be obliged to submit⁷⁵.

Because of the constitutive unity of the Church," Father Kleutgen continues, "it is inconceivable that the head should be separated from the whole body in matters of doctrine taught with infallible authority.

But it must be added that, if by the Episcopal Body is meant the bishops no longer gathered in Council but scattered throughout the universe, it can never happen that the Episcopal Body, that is to say, all or almost all the bishops, think differently from the Pope in these matters in which the Church can neither err nor fail. This can be deduced first of all from the promise of eternity made to the Church. She would perish if her body were separated from her head. This is also deduced from the promise of assistance made to Peter as well as to the body of the Apostles by the words: *Behold, I am with you always, to the end of the age.* Just as the promise made to Peter would be misleading if the Supreme Pontiff speaking *ex cathedra* could err, so the promise made to the College of Apostles would be misleading if the whole body of bishops could fall into error⁷⁶.

Finally, Father Kleutgen goes further, the bishops as a whole cannot rule or decide anything that goes against not only the truth but also holiness:

"Finally, whatever is ruled against truth, justice or holiness, cannot be ratified in Heaven. Now the Lord said to all his Apostles: *Whatever you bind on earth will be bound in both.* Therefore it cannot be that the whole

75 MANSI 53, 321 C-322A.

76 MANSI 53, 322 A.

body of bishops can depart from truth in teaching, **or from justice and holiness in government**"⁷⁷ .

III - 1. 5 Authority of the doctrine thus proposed

Moreover, this doctrine stated in this chapter is, according to Father Kleutgen, a dogma of faith:

"All these explanations have been given in order to resolve any difficulties that might be experienced in trying to reconcile the doctrine of canon III of *Pastor cetemus* with that of this decree, for as we have noted, the doctrine of our chapter states a perfectly certain dogma of faith"⁷⁸ .

Finally, Fr Kleutgen explains why the third paragraph of Chapter IV refers to the primatial function of the Supreme Pontiff:

Whysome may ask, should this constitution again speak of the primacy of the bishops to the Roman Pontiff We reply: 1. Since in the constitution, according to the very sure opinion of many Fathers, it is necessary to speak of the ecclesiastical hierarchy, it was obviously impossible not to speak of the supreme hierarch. 2. But in addition to the general declaration of the subjection of the bishops to the Pope, it was desired to emphasize in a few words two particular points: the rights of the Pope, on the one hand, over the particular Churches and, on the other, over the Ecumenical Councils. These two points are not dealt with in the first constitution, except implicitly in the general doctrine of primacy. Moreover, what is said here about the rights of the Pope over the particular Churches had been requested by an amendment to chapter III of the constitution *Pastor aeternus*. The Council, at the request of the rapporteur, had decided (...) to refer this to the second constitution on the Church"⁷⁹ .

UI - 2 Theological evaluation of the *Relatio Kleutgen*

III - 2.1. Origin of the power of jurisdiction

We have intentionally avoided speaking so far of the much debated question of the origin of episcopal jurisdiction. Already at the time of the Council of Trent, theologians had asked themselves whether the bishops received their jurisdiction immediately from God or mediately through the Supreme Pontiff, who would be its source. The Council of Trent did not want to settle this thorny question. The Fathers at the first Vatican Council, despite the high proportion among them of the supporters of the position which can be

77 MANSI 53, 322 A-B.

78 MANSI 53, 322 B.

79 MANSI 53, 322 B-C.

called Roman because of the number of Roman theologians who have supported it over the centuries, voluntarily refrained from discussing this question

It should be noted that, in his *Relatio*, Fr Kleutgen leans towards the medial origin from the Pope of the bishops' power of jurisdiction⁸⁰, even though the text of the schema also avoids dealing with this theme, leaving freedom of opinion on this point, following the declarations Mgr Zinelli⁸¹. This is perhaps the questionable point of the report, which in no way affects the validity of its presentation.

III - 2. 2. Theory of the double subject. The primatial power of the Pope in relation to the supreme power of the Episcopal Body

The theological foundations of his chapter IV correspond to the elements of response of Archbishop Zinelli, which we have previously explained⁸². The supreme power of government resides first of all in the Supreme Pontiff, but it also resides in the bishops united to the Pope. Father Kleutgen makes explicit this participation of the bishops in the government of the universal Church; they do not act as mere advisors, as would the members of a senate, but are true judges and definitors. Decrees taken in common accord with the Supreme Pontiff emanate from them as from an efficient and formal cause, even if they are caused no less formally by the Pope himself. Fr. Kleutgen summarizes the existence of this power of jurisdiction in the Episcopal Body united to the Pope and concludes: *therefore this power exists in a double subject, in the Body of Bishops united to the Pope and in the Pope alone*¹⁵. This introduction of the double subject is a theological response which is valuable in expressing the uniqueness of the supreme power of jurisdiction with which the Church of God is endowed. The fullness of the supreme *potestas* is absolutely unique, and its presence in two subjects does not multiply it. In fact, as Fr. Kleutgen explains, this supreme power can be exercised in two different ways, and this is how the notion of a double subject is introduced. 's text does not use the *inadequately distinct* qualifier

which we will return to in the course of our work, but this conception of this

80 Kleutgen does not hesitate to give the note **communior** to the thesis of the origin of episcopal jurisdiction directly from the Supreme Pontiff: "(...) controversia scilicet, utrum episcopi jurisdictionem ab ipso Deo in consecratione, an a Romano Pontifice accipiunt. Etiam si enim posterius, quod longe communior sententia tenet, ponatur" [*Relatio Kleutgen*, MANSI 53, 321 A).

81 Cf. U. BETTI, *Relations between the Pope and the other members of the College of Bishops*, in *L'Église de Vatican II*, Tome III, *Unam Sanctam* 51c, Les Éditions du Cerf, Paris, 1966, pp. 794-795. The author explains how the First Vatican Council voluntarily left the question open for discussion (cf. *Zinelli Report*: MANSI 52, 1109 C, 1110 C-D, 1314 A-C); the outline of the Second Constitution on the Church, in chapter IV, written by Father Kleutgen, maintains the same discretion on this theme.

82 Cf. § I - 3.

double subject corresponds exactly to the meaning of the expression *double subject inadequately distinct*, an expression which has been frequently used since the debates of the Second Vatican Council.

There can be no competition between the supreme power of the Roman Pontiff and the power of the Body of Bishops united to the Pope. As Fr. Kleutgen says, the two subjects of supreme power are not to be conceived separately. It is for the Pope to decide in what form he wishes to act. Whether he chooses to act personally, i.e., separately, without reference to the episcopate, or whether he chooses to act collegially, i.e., by involving the bishops in his decisions, the fact remains that he remains the arbiter of final decisions, since nothing can be decided without his consent or approval.

Fr. Kleutgen's presentation, while it has the merit of highlighting the part that the bishops have in the government of the Church, and the role that they exercise in relation to the *potestas suprema* over the universal Church, does not deal with the question of the pastoral ministry of the bishops in all its breadth, going back to the content of the mission bequeathed by Christ to the Apostles and transmitted to their successors. Fr. Kleutgen does not approach the theme *potestas* from the perspective of diakonia or a service which extends through apostolic succession the whole pastoral function of Christ, and in this he remains dependent on the theological approaches of his time, where *potestas* was considered above all in a juridical perspective.

ni - 3. Continuity with the previous teaching of the theologians. Reference to Father Bolgeni

The author mentions a continuity of the newly expounded doctrine with the teaching of theologians of previous centuries. The reference to St. Robert Bellarmine is a convincing example of the substantial homogeneity between the affirmation of papal primacy and the affirmation of the supreme authority over the universal Church enjoyed by the College of Bishops united to the Successor of Peter. G. Alberigo, in his work *Lo sviluppo della dottrina sui poteri nella Chiesa universale*⁷⁶, which is cited as a reference by many authors and theologians on the occasion of the debate introduced at Vatican Council II,

⁷⁶ ALBERIGO, *Lo Sviluppo della dottrina sui poteri nella Chiesa Universale, Momenti essenziali tra il XVI e XIX secolo*, Herder, Roma-Freiburg, 1964. He cites a number of post-Tridentine theologians who paved the way or expressly defended the thesis⁸³

⁸³ Giuseppe Alberigo cites the theologians Ballerini, Mamachi and Zaccaria as defenders of the rights of the Supreme Pontiff and, at the same time, of the episcopate (cf. *op. cit.*, pp. 285-287).

. Thus, among those who treated this theme in an absolutely explicit way, we find the German Benedictine Gerbert⁸⁴, the Dominican Christian-Polo⁸⁵, and finally the Jesuit Bolgeni⁸⁶, who published two fundamental works on this theme: *Fatti dommatici* (1788) and *L'episcopato ossia della potestà di governare la Chiesa* (1789).

Father Bolgeni maintains the immediate collation by God to the bishops of the episcopal jurisdiction over the universal Church, because of their insertion in the Episcopal Body, and the collation directly by the Pope of the particular jurisdiction of each bishop in his diocese. He explains how this universal jurisdiction is exercised in the Councils or in the episcopate dispersed in union with the Pope. Bishop Philips rightly points out that this *disjunction proves artificial and inaccurate*⁸⁷. Bolgeni's merits must be recognized, however, even if his theory of the origin of episcopal jurisdiction is defective because of the juridical conceptions and categories of his time

Given the impact of Father Bolgeni's thesis and its consonance with Father Kleutgen's doctrine, we allow ourselves a few quotes

"Therefore, the episcopate is found, indivisibly, in all its fullness and extension, in the whole body of bishops, as Christ instituted it"⁸².

"Each bishop possesses *potestas* over the Church, *in solidum*, that is, undivided with all the others"⁸³.

◆ (Each bishop) when united with the other bishops and with his Head, exercises *potestas* over the whole Church, as happens in the General Councils confirmed by the Pope"⁸⁴.

◆ In virtue of the consecration, the newly elected are made members of this body, which succeeds the Apostolic College, and all participate, *in solidum*, in that supreme *potestas*, which was given by Jesus Christ to all the Apostles taken together with St. Peter"⁸⁵.

84 Cf. his work. *De Communionem potestatis ecclesiastica inter summos ecclesia principes pontificem et episcopos* (1761) quoted by G. Alberigo, *op. cit.* pp. 229 & seq. It reads, for example: "(...) episcopi Collegium Apostolorum repraesentant, non excluso Petro, sed ei indissolubiliter conjuncto Collegio episcoporum, quod succedit Collegio Apostolorum (...)">◆>(De communionem..., cap. II, n. 4, p. 62).

85 Cf. his work *Della nullità* (1786) quoted by G Alberigo (*op cit.*, pp 261 & seq.). We read for example: "sicché tutti i vescovi insieme col capo loro formassero un solo, unico e indivisibile episcopato, a cui tutta la Chiesa... fosse soggetta" (*Della Nullità*, cap. Ili, n. 231, p. 362) and again: "per questa ragione appunto, che laddove ogni vescovo particolare non è che il pastore di una sola diocesi, all'opposto tutto il Collegio, o sia il corpo dei vescovi, insieme col Papa, he is the head of this medievale body, and the centre of their unity, is that one and indivisible vescovado, to whom Gesù Cristo has committed the government of the whole Church" (*Della Nullità*, cap. Ili, n. 231, p. 362).

86 John Vincent BOLGENI (1733-1799) was born in Bergamo and entered the Society of Jesus in 1747. He wrote various works of a polemical nature to refute the Jansenist errors of the time: *Esame della vera idea della Santa Sede* (1784) against Tamburini...; he was appointed theologian of the Sacred Penitentiary, published works in defence of the rights and prerogatives of the Holy See. Father Bolgeni showed courage in fighting the constitutional Church in France, but then lost his way on the question of the civic oath.

Bolgeni's assertions are obviously very close to the statements of Archbishop Zinelli that we have analysed before, and to Father Kleutgen's presentation, so that it cannot be said that the Roman theologian has expressed a new, doubtful doctrine of his own

It seems useful to us to give a few more significant passages from his work *L'episcopato* in order to show how the doctrine of collegiality was already elaborated in Fr. Bolgeni and very close even in its terminological expression to that of Fr.

♦The Apostolic College, when it received the episcopate, included in its bosom the Apostle St. Peter; hence the body of the Apostles can never be considered as forming a body and a unity, without including St. Peter, as head and principle therefore not two sovereign *potestates*, but one and only one"⁸⁶

both universal and particular jurisdiction (insofar as a diocese has been assigned to it), which cannot be separated (cf. LG 21b).

82. *Fauti Donunatici*, cap. III, n. 386 p. 769, quoted by G. ALBERIGO.

83. *Ibid*, p. 769.

84. *Ibid*, n. 387, p. 775.

85. *Ibid*, n. 392, p. 785.

86. *L'episcopato oisia delia poienà di governare la Chiesa*, 2nd edition, pars I, cap. II, n. 69, p. 66, quoted by Giuseppe AUJERIGO.

"The sovereign episcopate is found in the Roman Pontiff alone, Successor of Peter, to whom every bishop is subject by divine institution in the government of the Church; and it is found again in the whole body of bishops considered collegially; this body must always and necessarily include the Roman Pontiff who is its head"⁸⁷.

Further on Fr. Bolgeni is even more precise about what theologians of the XX^e century will call the theory of the two inadequately distinct subjects. He writes:

"The power of full and universal government over the Church, or equivalently the full and sovereign episcopate, is found in the person of Peter and each of his successors, and in the whole Apostolic College united to Peter and in the whole Body of Bishops united to the Pope"⁸⁸.

We find this doctrine expounded by J. V. Bolgeni in many later theologians and canonists in the period of the nineteenth century preceding the First Vatican Council, in particular Politi, Maur Cappellari (the future Gregory XVI), Muzarelli, Philips, Maupied, Grandclaude, etc.⁸⁹.

87 *Ibid*, pars I, cap. II, n. 2, p. 5.

88 *Ibid*, pars I, cap. II, n. 23, p. 48.

89 Cf. A. MICHEL, *Collegiality in L'Amidu Clergé*, Vol. 74 (1964), pp. 763-768.

Let us conclude this first chapter by recognizing the importance of the work done at the First Vatican Council. The Fathers of the Council, however eager they were to define in an unambiguous manner the doctrine of the primacy of jurisdiction in the person of the Supreme Pontiff in the face of the recurrent errors of regalism, conciliarism, Jansenism, Gallicanism, Febronianism and Josephism, did not intend to despise the Episcopal Body, its divine institution or its prerogatives. Let us not forget that the infallibility of the universal ordinary Magisterium, that is to say, the infallibility of the Episcopal Body scattered throughout the world but united by the bond of communion with the Supreme Pontiff, when it enunciates with authority a doctrine concerning faith and morals, is a doctrine defined by the same Council⁹⁰. The Council intended to deal more systematically and in depth with the subject of bishops and the episcopate, in particular with the question of the participation of bishops in the government of the universal Church. Events did not permit the realization of such a project, the outline of the second constitution on the Church, which dealt with all these questions, could not be discussed, and the Fathers had to separate before they could decide anything on this theme. However, the interventions of the Fathers, both those of the *Minority* who more or less openly wished to delay a doctrinal proclamation of the primatial power and infallibility of the Roman Pontiff, and those of the *Majority* who were largely aware of the role of the bishops in the government of the universal Church, the official explanations of the rapporteur of the Faith Delegation who spoke very clearly on the question and especially the outline of the second constitution on the Church prepared by Father Kleutgen, accompanied by the relation composed by the same author, have enabled us to realize the awareness which the Council Fathers had of this truth, now taught *ex professa*, concerning the exercise of the supreme power of jurisdiction of the College of Bishops⁹¹.

It is astonishing to see the theory of the double subject already so elaborated at the time of Vatican Council I. The Episcopal Body united to the Pope on the one hand, and the Supreme Pontiff on the other, are subjects of supreme power over the universal Church. The Second Vatican Council benefited greatly from the conclusions of the Fathers of Vatican I and

90 The Constitution *Dei Filius* clearly teaches: "Porro fide divina et catholicae omnia credenda sunt, quae in verbo Dei scripto vel tradito continentur et ab Ecclesia sive solemnii iudicio sive ordinario et universali Magisterio tamquam divinitus revelata credenda proponuntur*" (DS 3011).

91 It is true that the Second Vatican Council, in Chapter III of the Constitution *Lumen Gentium*, set out in harmonious unity the sacred power which the pastors of the Church, Pope and bishops, have at the service of their brethren. Their pastoral functions embrace not only the power of jurisdiction, but also the functions of teaching and sanctification, which cannot be separated from each other. In this respect, the formulation of the work of the First Vatican Council was still called to mature and develop, so that the College would appear as a whole united in the same concern for the service of the universal Church. We will return to this Chapter IV.

its formulation, as we shall see, is not far from that of Kleutgen. It is quite symptomatic in this regard to note that the text of *Lumen Gentium* that seeks to illustrate paragraph 22 on Collegiality refers twice to Archbishop Zinelli's statement, and once to Kleutgen's *Relatio*, with their respective locations in Manci

Chapter II

The Doctrine of Collegiality from the first Vatican Council until 1955

U tter the work of the First Vatican Council was completed, treatises and literary essays on the Church multiplied, with the main objective of presenting and highlighting the new dogmas defined at the Council. The exposition of the doctrine of the Pontifical Primacy and of the new dogma of the infallibility of the Roman Pontiff will find an essential place both in theological and apologetic manuals and in subsequent studies on the subject of the divine Constitution of the Church. To be convinced of this, it suffices to look at the "elenchi" listed in the works on ecclesiology published during the last decades. Let us mention especially the work of A. Anton, *El Misterio de la Iglesia*⁹², and that of J. Lopez-Ortiz and J. Blásquez, *El Colegio Episcopal*⁹³, which provide an impressive list of theological works dealing with this theme since the first Vatican Council.

In this second chapter, we shall measure how the debates and the promulgation of the First Vatican Council have influenced the thinking of theologians, and consider the possible progress of the doctrine of collegiality in the period following the Council. The modest framework of our study obliges us to restrict the field of our investigations; this is why we will orient our research towards certain authors who have distinguished themselves, among their contemporaries, by their renown and their theological science, especially in the field of ecclesiology⁹⁴. A certain number have particularly caught our

92 Á. ANTÓN, *El Misterio de la Iglesia*, vol. 1: *Evolución histórica de las ideas ecle-siológicas*, BAC, Madrid, 1986. In this work, the second part entitled *La eclesiología desde el Vaticano I al Vaticano II* is particularly interesting.

93 J. LÓPEZ-ORTÍZ, J. BLÁSQUEZ, *El Colegio episcopal*, C.S.I.C., Junta de ciencias sagradas, Madrid, 1964.

94 In particular, we will consider the following authors:

Johannes PERRONE, *Protectiones Theologica*, Volume 1, *De Vera Religione*, pars altera, Gaume-Roger et Chernoviz, Parisiis-Subirana, Barcinone, 1887, pp. 147 & *Q-

Dominicus PALMERI, *Tractatus de Romano Pontifice*, Editio altera, Prati, 1891, pp. 671-672.

Dom GREA, *De l'Église et de sa Constitution*, Tome I, Maison de la Bonne Presse, Paris, 1907, pp. 186 - 236.

A TANQUEREY, cooperating J. WEBER, *Synopsis theologia dogmatica fundamen-talis*, Pars prima, Desclée & socii, Parisiis-Tornaci-Romæ, 1908, pp. 337-338. One can also refer to his more recent work: *Synopsis theologia dogmatica fundamentalis*, Pars prima, revised and corrected edition by J. B. Bord, Desclée & socii, Parisiis-Tornaci-Romæ, 1942, pp. 660 & seq.

G. VAN NOORT, *Tractatus De Ecclesia Christi*, Amstelodami, Apud C. L. Van

attention, but we do not prejudice those we have not been able to mention, even if we have tried to widen our sources as much as possible

1 - THE APOSTOLATE. THE CONSTITUTION OF THE APOSTOLIC COLLEGE. THE FULL AND UNIVERSAL JURISDICTION OF EACH APOSTLE

The authors we will consider during this particular period are all unanimous in recognizing the existence of an Apostolic College made up of the Twelve, to whom Our Lord entrusted *in solidum* the task of feeding the flock of the faithful.

1 - 1. The Constitution of the Apostolic College

The authors and theologians of that time generally appreciated the inestimable value of Holy Scripture as a solid foundation and prerogatives of the Apostolic College⁹⁵. In the Gospels, the Apostles of Jesus are referred to primarily as the Twelve. The account of the three synoptics of the institution of the Twelve is already significant⁹⁶. St. Mark says that Christ *instituted twelve of them to be his companions and to send them out to preach with power to cast out demons* (Mk 3:14-15). Saint Matthew is no less explicit: *And after having summoned the twelve, he gave them power over the unclean spirits (...)*. We find this designation in Saint Luke: *And when it was day, he called his disciples. He chose twelve and called them his apostles...* (Lk. 6:13). The whole Gospel shows that the Apostles form a definite group, so definite that it has its own name: *The Twelve*⁹⁷.

Thus, the theologian Perronne emphasizes on several occasions the collegial character of the group of Twelve:

"Let us note that Christ gave to Peter alone what he then conferred on the *whole Apostolic College* or Church (...)"⁹⁸. Billot speaks explicitly

Langenhuisen, 1913, pp. 25 & seq, pp. 221-222.

L. BIJJUT, *Tractatus De Ecclesia Christi* (volume I), Apud Aedes Universitatis Gregorianae, Romae 1921, pp. 561-565.

C. JOURNET, *L'Eglise du Verbe Incarné*, tome I, La Hiérarchie apostolique, Edition Desclée de Brouwer, 1941, pp. 498 & seq

95 T. ZAPEU-NA, *De Ecclesia Christi*, Pars Apologetica, *De Collegio duodecim*, Romae, Apud aedes universitatis gregorianae, 1940, pp. 142 & seq.; cf. also VÂN NÜOKI, *op. cit.* pp. 25-27; cf. C. JOURNET, *op. cit.* pp. 502-503.

96 Cf. Mk. 3:13-19; Mt. 10:1-4; Lev. 6:12-8.

97 It is not useless to give the numerous other scriptural references which allude to the group of the Twelve: cf. Mt 11:1; 20:17; 26:14, 30; Mk 3:14-16; 4:10; 11:11; 14:10; 17:20, 43; Lk 8:1; 9:1; 18:31; 22:3; Jn 6:67-71; 20:24

98 J. PERRONE, *op. cit.* p. 254, n. 90: "Videamus Christum Petro seorsum ea omnia contulisse, quae toti postea contulit Collegio Apostolico seu Ecclesiae, quae insuper debet regi,

of the College of Apostles united to Saint Peter as the repository of supreme power over the Church:

"It is true that Christ, in order to foster this unity, for which He prayed at the Last Supper, referring to His Apostles, *Ut sint unum sicut et nos, ut in nobis unum sint, ut sint consummati in unum*, established in a stable and perpetual way that the Apostolic College, as united to its foundation, Peter, would also beholder of supreme power"⁹⁹.

Dom Gréa¹⁰⁰, A. Tanquerey¹⁰¹, C. Journet¹ also speak of the College of Apostles, when they deal with the theme of the episcopate. Let us also quote the German theologian Pesch¹⁰², who is very explicit on this subject:

"The Apostles were not twelve particular persons, without any special link between them, as if each had been constituted a divine legate independently of the others. But rather they formed *body*, in the moral sense of the word, one *magisterial college*. They were designated by a collegiate appellation, and they are collegially distinguished from the others. After their election they are called *the Twelve*; after the death of Judas they are called *the Eleven*, after the manner of *the Twelve*, for according to the will of Christ they were to form the College of *the Twelve*. There is no doubt that the Apostles formed one and the same moral body, the Apostolic College."

The authors of this period like to show the whole Apostolic College at work, and assembled in a somewhat solemn circumstance to form the first Council. It was to regulate the interests of the Church by ruling on the discipline of converts from paganism. And the decision was not made by Peter alone, but simultaneously by all: *it seemed good to the Spirit and to us* (Acts 15:28).

It is worth noting that the word *college* used to designate the group of Apostles was already used in the Roman liturgy. It is the *Collect of the Mass of St. Matthias*: *O God, who associated the blessed Matthias with the College of your Apostles, grant us, we pray you, that through his intercession we may always feel the effects of your mercy in our regard, through Our Lord Jesus*

moveri, dirigi a capite, nec quidpiam potest independenter ab ipso"; cf. p. 126, n. 265: "Episcopi simul unum corpus efficientes sunt successores Apostolorum seu *Collegii Apostolici*". Cf. also G. VAN NOORT, *op. cit.* p. 25: "Christus in Ecclesia sua sacrum principatum instituit, *Collegio Apostolorum* directe conferendo potestatem magisterii, sacerdotii et regiminis".

⁹⁹ L. BILLOT, *op. cit.*, Thesis XXVII, p. 561.

¹⁰⁰ Dom GREA, *op. cit.* pp. 186 & seq. speaks indiscriminately of the College to designate the group of Apostles with St. Peter or the group of bishops united to the Sovereign Pontiff.

¹⁰¹ Cf. A. TANQUEREY, cooperating J. WEBER, *Synopsis theologia dogmatica fundamentalis*, Pars prima, Éditions Desclée & socii, Parisiis-Tornaci-Romæ, 1908, n. 58 pp. 337-338.

¹⁰² C. PESCH, *Insnitionespropedeutica*, Friburgi Br., 1915, vol. I, p. 163, n. 285.

Christ6.J¹⁰³ .

1-2. The apostolate

In the person of each of the twelve men whom Jesus Christ chose from among his disciples to make what he himself called his Apostles, there were two joint functions: an ordinary, definitive function, destined to be passed on to the bishops, their successors, and an extraordinary, transitory function, destined to disappear on the death of each of them¹⁰⁴ .

The first function concerned the ministry of the community, which the Apostles were charged to serve and preside over in the name and stead of God. The doctrinal magisterium, the sacred worship exercised in virtue of the supreme priesthood, and the ministry of government are the powers which Jesus Christ conferred on the Twelve collectively. This office entrusted to the Apostles was intended to be permanent and therefore to be passed on uninterruptedly to the end of the centuries to their successors, who are the bishops¹⁰⁵ .

103 *Missate Romanum*, Collect for the Mass of St. Matthias (February 24).

104 The Swiss theologian C. Journet (C. JOURNET, *op. cit.*, pp. 136 & seq.) says about the powers of the Apostles: "This distinction between extraordinary and permanent jurisdiction, for which we are trying to give an explanatory reason, is manifest to all eyes by a double fact. It appears to be absolutely certain that the Apostles possessed privileged powers which were to be extinguished after them: power, for example, to communicate new revelations or to write inspired books. On the other hand, it appears absolutely certain that the Apostles were the first to possess a power to teach the nations which was to pass to their successors and continue until the end of time.

The theologian L. Billot (L. BILLOT, *op. cit.*, p. 546) speaks of the double mission of the apostolate in these terms: "In apostolatu duplex missio includebatur: una quidem ad initiandam et plantandam Ecclesiam, alia vero ad eam gubernandam et conservandam et etiam dilatandam in eadem forma quam semel accepisset, usque ad consummationem sæculi. Porro missio prior ex natura sua extraordinarium munus erat, et ad tempus foundationis necessario restringebatur, ut in terminis evidenter liquet. Posterior e contra, ex propria sua ratione importabat munus ordinarium nusquam exstinguendum quamdiu ipsa stabit Ecclesia. Unde statim consequitur, aliquid esse de apostolatu quod cessavit cum illis Apostolis per excellentiam dictis quos immediate elegerat et miserat Christus".

Dom Gréa (Dom GREA, *op. cit.*, p. 221) pronounces himself in the same sense: "We do not pretend to deny, however, that the Apostles did not receive from Jesus Christ special gifts which are not included in the treasure of the episcopate. Modern theologians distinguish in them the Apostolate properly so called from the episcopate which they had to transmit". Dom Gréa quotes Suarez, Bellarmin, Zacaria, Gerdil and especially Pius VI as references: "Dogma catholicum est Apostolos, tametsi extraordinaria præditos potestate quæ data personis cum ipsis personis interiit, fuisse Petro subjectos...., et subesse plenitudini potestatis Romani Pontificis... omnes episcopos, qui extraordinaria potestate Apostolorum destituuntur" (Pius VI, *Brev. super Nunciat.* c. III, sect. I). Dom Gréa (*op. cit.* p. 223) does not hesitate to break down the gifts received from the Apostles in their mission into two elements: "On the one hand, the power which they were to transmit to their disciples, who had become their brothers in the episcopate; on the other hand, the personal privileges which were to end with their lives".

105 Cf. C. JOURNET, *op. cit.* pp. 498 & seq.

The second function, extraordinary, was to promulgate in its totality the Revelation, received directly from Christ or from the Holy Spirit, and to found the Church on certain institutions willed by Christ

This extraordinary function was accompanied by an equally extraordinary gift: a special assistance which made each individual Apostle infallible in his teaching and in the execution of his apostolic tasks

This personal infallibility enjoyed individually by each Apostle was necessary as L. Billot: *in order to establish the Church infallibly, in accordance with the institution of Christ, so that it remains, until the consummation of the centuries, such as they founded it in the beginning*¹⁰⁶.

C. Journet devotes about twenty pages of his work¹⁰⁷ to the explanation of the apostolate or privileges of the Apostles; they had the task of promulgating certain sacraments, enjoyed an exceptional prophetic knowledge the substance of Revelation, as we have already said, were endowed with that infallibility which is necessary for the manifestation of Revelation by means of teaching and, moreover, were in possession of an extraordinary charism of government intended to lay the foundation the Church. Moreover, they were granted the power to perform miracles as if in profusion, in order to confirm the faith they preached¹⁰⁸. Finally, it is commonly admitted that the Apostles shone by their holiness and that, since Pentecost. According to Dom Gréa: *The Apostles were confirmed in grace; they had the gift of miracles, inspiration, personal infallibility by a special assistance of the Holy Spirit*¹⁰⁹. C. Journet, quoting St. Thomas, expresses himself in the same sense:

◆ It was fitting, says St. Thomas, that the Apostles, at the time of Pentecost, should be *confirmed in grace*, "for they were to be as the foundation and base of the whole ecclesiastical edifice, and it was necessary that they should be stable"¹¹⁰. In Christ, confirmation in grace excluded the intrinsic possibility of sinning; this was not the case with the Apostles (...). The divine protection intervened to prevent them from succumbing to any temptation. Nevertheless, even then, the Apostles sinned venially. At Antioch, Peter, the most blessed of the Apostles, gave way, and Paul had to rebuke him"¹¹¹.

These extraordinary powers, these strictly apostolic privileges, were attributed to the Apostles in order to found the Church and to implant it in the

106 L. BILLOT, *op. cit.*, Thesis XXVI, p. 547.

107 See C. JOURNET, *op. cit.*, pp. 140-167.

108 Cf. Commentary of St. Gregory the Great (Homil. in Evang. GREGORY THE GREAT (*Homil. in Evang.*, Lib. II, homil. 29; PL 86,1215): "Could it be, then, my brothers, that you, who do not perform all these miracles, have not believed at all? But no, they were necessary at the beginning of the Church. For faith to grow, it needed miracles" (quoted by C. JOURNET, *op. cit.*, p. 162).

109 Dom GREA, *op. cit.* pp. 221-222.

110 ST. THOMAS AQUINAS, *Quaestiones disputatae, De veritate*, qu. 24, a.9, ad 2, in *Opera Omnia jussu Leonis XIII P. M. edita*, Tomus XXII, Romae ad Sanctae Sabinae, 1973.

111 C. JOURNET, *op. cit.* pp. 165-166.

worldBeing by their very nature non-transferable, they had to disappear with them¹¹².

1-3. Extraordinary power of jurisdiction of each Apostle over the universal Church

It seems good to us to say a word about this extraordinary power of the Apostles, so that we can distinguish it from the power of jurisdiction over the universal Church which belongs to the College of Apostles itself

As we have said, the Apostles had been given a power of extraordinary jurisdiction which would enable them, wherever they went, to preach, found Churches, institute bishops, establish laws, or render judgments in religious cases

A. Tanquerey says that *the Apostles, as founders of Churches, even as individuals, enjoyed universal jurisdiction (without prejudice to the primacy of Peter): but this power of universal jurisdiction was not transmitted to their successors*¹¹³ ^.

Dom Gréa in his chapter IV, *De l'action extraordinaire de l'Episcopat*¹¹⁴, grants this exceptional power of universal jurisdiction to the Apostles, but expresses a reservation with regard to theologians who have perhaps given too much extension to this privilege, to the point of making the apostolate a sovereign power exercising itself with a sort of independence over the universal Church, as extensive in certain respects as that of the vicar of Christ, and like him, divinely instituted with the characteristics of plenitude and sovereignty. Dom Gréa recalls how Marc-Antoine deDominis, starting from the acquired fact of the universal sovereignty of the Apostles, came to give to the episcopate the principal authority in the Church and to each bishop a universal and sovereign power. This is why the Sorbonne condemned the following proposition of this author: *the bishops, not only taken in common, but also considered separately, inherit the power of universal jurisdiction* (Anton, de Dominis, Rep. eccl. I. ni, c. 1).

C. Journet¹¹⁵ perceives the difficulty of recognizing a supreme power of jurisdiction to each of the Apostles and at the same time of affirming their dependence on Peter. How can we understand that the Apostles possessed a

112 interesting to note that the Second Vatican Council, in connection with the Constitution *Lumen Gentium*, in the *Nota Explicativa Prævia* n. 2, recognizes that the Apostles were endowed with extraordinary powers: "The parallelism between Peter and the other Apostles, on the one hand, and the Supreme Pontiff and the bishops, on the other, does not imply the transmission of the extraordinary power of the Apostles to their successors ()

113 Cf. A. TANQUEREY, *Synopsis theologûe dogmatise fundamentalis*. Pars prima. Edition revised and corrected by J. B. Bord, Desclée & socii, Parisiis-Tornaci-Romæ, 1942, p. 438.

114 Dom GREA, *op. ciL*, pp. 223-224.

115 C. JOURNET, *op. cit.* pp. 158-159; pp. 464-465.

supreme power, if they depended on Peter and were unequal among themselves? He recalls with pertinence the thesis of Marsilio of Padua condemned by John XXII in 1327: *The Blessed Apostle Peter was not more head of the Church than any of the other Apostles; he had no greater authority than that which the other Apostles had.*⁶ J¹¹⁶. Saint Robert Bellarmine, quoted by C. Journet¹¹⁷, offers an element of response in his treatise *De Romano Pontifice*:

♦The *supremepotestas ecclesiastica* was not given to Peter alone, but also to the other Apostles (...).But it was given to Peter as the ordinary pastor called to receiveperpetual succession; and to the others as delegates, withoutintended succession (Lib. I, cap. 9)."

The Apostles received the supreme power of jurisdiction as Apostles or legates, but Peter received it as ordinary Pastor (Lib. I, cap. 9)

This prerogative did not prevent the Apostles from ranking themselves among the sheep of Christ with Peter as their visible shepherd. In this regard, Leo XIII, in the Encyclical *Satis Cognitum* of June 29, 1896, leaves no room for ambiguity:

"That the *keys* here denote the supreme power, *the Biblical usage* and the unanimous consent of the Fathers do not allow

There is no doubt about it.And one cannot interpret otherwise the powers which were conferred, either on Peter separately, or on the Apostles jointly with Peter.If the power to bind, loose and feed the flock gives the bishops, the successors of the Apostles, the right to govern with true authority the people entrusted to each of them, surely this same power must produce the same effect in him to whom God himself has assigned the role of feeding the *lambs and sheep*. *Peter was not only appointed shepherd by Christ, but he was constituted shepherd of shepherds. Peter, therefore, shepherds the lambs and he shepherds the sheep; he shepherds the little ones and he shepherds the mothers; he governs the subjects, he governs the prelates, for in the Church, apart from the lambs and the sheep, there is nothing*². Hence the Fathers of old use those peculiar expressions which designate Blessed Peter, and which evidently show him to be in the highest degree of dignity and power. They frequently call him: *Principem coetus discipulorum, sanctorum Apostolorum Principem (...)*^{*2} \ Thus the power of supreme jurisdiction which the Apostles enjoyed over the universal Church is not to be understood in the same sense with regard to the person of Peter and the persons of the other Apostles. C. Journet¹¹⁸ relies on S. Robert Bellarmine, who affirms that *the Apostles had the fullness of power in such a way that Peter was their head, and that they were in his dependence, not vice versa* (*De Romano Pontifice*, lib. I, Cap. XI). St. Peter had jurisdiction over each of the Apostles and could command them, even though the Apostles

116 DS 942.

117 C. JOURNET, *op. cit.*, p. 159, note 1 and p. 464, note 2.

118 C. JOURNET, *op. cit.* p. 159, note 1.

could, wherever they went, preach, institute bishops, and found churches. None of them, taken separately, could decide on the universal order of the Church, nor could they found laws that would bind the whole Church; therefore Peter's power exceeded that of the other Apostles.

Among the reasons given to explain the Apostles' possession of this extraordinary jurisdiction, Dom Gréa invokes the *necessities of the Gospel*, which required that the power of the Apostles be exercised to this extent in the early days of the Church. The absence of any established Church, of any particular jurisdiction, implied, because of their ministry, the exercise of an extraordinary jurisdiction in the universal Church. Dom Gréa explains how this freedom of jurisdiction was without danger for the Apostles. They used it in complete safety, because it was guaranteed against deviations and abuses by divine assistance and the personal gifts of holiness and inspiration which they enjoyed¹¹⁹.

n - The APOSTOLIC COLLEGE IS SUCCEEDED BY THE EPISCOPAL COLLEGE

If the use of the word *College* applied to the group of Apostles does not pose any difficulty for theologians as a whole, the same cannot be said of its application to the whole Episcopal Body, especially in the period following the first Vatican Council. Let us recall that the first outline on the Church presented in the conciliar aularepudiated the use of the word *College*¹²⁰ in reaction against the egalitarian meaning that the Protestant theology of the XVII^e and XVIII^e centuries.

During the period which concerns us, the only text of the Pontifical Magisterium where we find the word *college* to designate the universal episcopate is the encyclical *Satis Cognitum* of Leo XIII, of June 26, 1896, where the Pope uses the expression *Episcoporum Collegium* to make the point that this College cannot exercise the supreme power without Peter nor against Peter¹²¹.

119 Cf. Dom GREA, *op. cit.* II, cap. IV, p. 214.

120 Cf. Cap. I, § n - 3. 5.

121 LEON XIII. *Satis Cognitum*, in *DS* 3309: "Hanc vero, de qua dicimus, in ipsum episcoporum collegium postestatem, quam sacrae litterae tam aperte enuntiant, agnoscere ac testari nullo tempore Ecclesia destitit. Illa sunt in hoc genere efata Conciliorum: *Romanum Pontificem de omnium Ecclesiarum praeulibus iudicasse legimus*, de eo vero quemquam iudicasse, non legimus (Hadrianus II, *Allocutione III ad Synodum Romanam* year. 869). Cujus rei ea ratio redditur, quod *auctoritate Sedis Apostolica major non est* (Nicolaus in *Epist. LXXXVI, ad Michcel Imperatj*). Quare de Conciliorum decretis Gelasius: *sicut id quod prima Sedes non probaverat constare non potuit, sic quod' illa censuit iudicandum, Ecclesia tota suscepit*. Sane Conciliorum consulta et decreta, rata habere vel infirmare semper Romanorum Pontificum fuit

Sane claves regni coelorum uni creditas Petro, item ligandi solvendique

Dom Gréa¹²², in his work *De l'Église et de sa Constitution*, does not hesitate to say that the bishops united in the solidarity of the episcopate form the *College of Bishops*, which St. Ignatius of Antioch calls the *Presbytery of the Church*¹²³ universal.

A. Tanquerey¹²⁴, in his textbook on fundamental theology, is no less explicit and states the following thesis:

"Thesis rVa: The successors of the Apostles, in the power of teaching and government, are, by divine right, the bishops grouped in collegiate form. We say: *of divine right*, because the bishops are instituted in virtue of an *ordination* which is not human but *divine*, contrary to what the *Presbyterians*, the *Lutherans* and also some *liberal Anglicans* say, who maintain that the bishops were not instituted by Christ or the Apostles, but that they have arrogated to themselves little by little and without reason the power which they now enjoy. They are also said **grouped in collegial form**, for we do not claim that each bishop is the successor of a particular Apostle, but we maintain that the **College of Bishops succeeds the College of Apostles, so that** the supreme power of teaching and governing belongs, not to each individual bishop[^] but to **the whole College**. This thesis is founded on Holy Scripture and is also demonstrated by history."

The theologian G. Van Noort in turn develops a similar proposition in his treatise *De Ecclesia Christi*. *The sacred power originally attributed to the College of Apostles has been perpetuated in the College of Bishops*^{*7}. - interesting to note that, in his argument the author carefully distinguishes the particular person of the bishop, who does not really succeed a particular Apostle, from the complete Episcopal Body which succeeds the Apostolic College as a whole:

"In the same way that we have previously spoken of the *Coetus Apostolicus*, we now speak of the College of Bishops. For we do not claim that each bishop is the successor of a particular Apostle, but we maintain

potestatem Apostolis una cum Petro collatam, sacrae Litterae testantur: at vero summam potestatem sine Petro et contra Petrum unde Apostoli acceperint, nusquam est testatum" --

122 Cf. Dom GREA, *op. cit.* pp. 186-187. According to Dom Grea, "as regards the re-establishment of the Churches, the Apostles at the beginning, and after them their first disciples, acted in virtue of this general mission: 'Go and teach all nations' (Mt 28:19). This is obvious since the Gospel gives them no other. Now, this general mission constantly concerns the episcopate. It was properly given to the College of Bishops, since its efficacy was to last until the end of the world, in accordance with what follows in the sacred text: *And behold, I am with you until the consummation of the ages*" (Mt 28:20). This is the doctrine of St. Augustine, and it has never been contradicted... This mission preceded the foundation of the Churches which were later to be assigned to each member of the College" (*op. cit.*, p. 211).

123 SAINT IGNATIUS OF ANTIOCH (quoted by Dom Gréa, *op. cit.*, p. 187), *Epist. ad Philad., ad Ephesus, ad Tralli*

124 A. TANQUEREY, cooperating J. WEBER, *Synopsis theologice dogmaticae fundamentalis*, Pars prima, Desclée & socii, Parisiis-Tornaci-Romæ, 1908, pp. 337-338.

that the Body of Bishops has succeeded the College of Apostles"¹²⁵ .

The theologian d'Herbigny does not hesitate to support the same assertion: *the College of Bishops succeeds the Apostolic College or rather is one with it*¹²⁶ .

The theologian Zapelena, in his work *De Ecclesia Christi*, devotes a whole chapter to the question of the succession of the Apostolic College: *Of the College of Bishops which succeeds the College of Apostles*¹²⁷ . He explains how the bishops succeed the apostles *in potestate ordinis* in a full and perfect manner; they succeed the apostles *in potestate magisterii* in an imperfect manner: only in so far as they are authentic teachers of doctrine. The prerogative of infallibility is not personal to them as it was to the Apostles, although it belongs to them collegially since *the College of Bishops succeeds the College of Apostles, even in their prerogative of infallibility*¹²⁸ . Finally, taken separately, they succeed the Apostles *in potestate regimini*, only insofar as they have ordinary and proper power over a certain portion of the flock which is the Church. However, according to T. Zapelena :

"The College of Bishops succeeds the Apostolic College; indeed the bishops, taken collectively under the authority of the Roman Pontiff, have a universal jurisdiction which they exercise, in the first instance, when they are assembled in an Ecumenical Council"¹²⁹ .

111 - DOES THE BISHOP ONTOLOGICALLY POSSESS JURISDICTION OVER THE UNIVERSAL CHURCH? DOES THE COLLEGE OF BISHOPS POSSESS the SUPREME POWER OF JURISDICTION over the universal Church?

112- 1. the origin of the bishops' power of jurisdiction *in genere*, in the authors of that time

It seems that, following the First Vatican Council, theologians who have dealt with the subject of the episcopate grant it a participation in the supreme power of jurisdiction over the universal Church; however, the way in which this participation is envisaged varies according to the authors

We have so far left aside the subject of the origin of jurisdiction in the

125 *Op. cit.*, p. 34: "Quemadmodum autem supra locuti sumus de *Csetu Apostolico*, ita nunc loquimur de *Collegio Episcoporum*, non enim singulos episcopos singulorum apostolorum successores dicimus, sed contendimus Collegio Apostolico successisse Corpus Episcoporum = episcopatum"

126 M. D'HERBIGNY, *Theologica De Ecclesia II*, Beauchesne, Parisiis, 1928, n. 374 - "Collegium Episcopale succedit Collegio Apostolico, vel potius idem est cum illo - .

127 T. ZAPELENA, *De Ecclesia Christi*, Pars Altera, Romae, Apud aedes universitatis gregonans, 1932, Thesis XIV, pp. 7-11: ♦ De Collegio Episcoporum succedente Collegio Apostolorum".

128 *Op. cit.* p. 10.

129 *Op. cit.*, p. 10.

bishops, contenting ourselves with mentioning that the Fathers of the first Vatican Council did not wish to bring the question into the discussion. It is worthwhile to say a word now about this question, which will be important in describing and understanding the various positions concerning the problem of the collegial power of bishops over the universal Church.

For a very large number of theologians of the period following the First Vatican Council, the power of jurisdiction of the Pope comes immediately from Jesus Christ, while the power of jurisdiction of the bishops is given through the intermediary of the Supreme Pontiff. It suffices to quote, among many others, Dom Gréa and Cardinal Journet:

"Hierarchical communion, a perfect synonym for jurisdiction of moderns, is such, in fact, that it is given by the head and received by the members. It is, in fact, the very life of the whole body of the Church which proceeds from the centre and spreads to the ends"¹³⁰.

◆ The Supreme Pontiff, who is properly the head of the universal Church and the source of all jurisdiction, is therefore, according to the language of antiquity, the head of the *communio ecclesiastica*. These two expressions are absolutely synonymous, and today we call jurisdiction what was formerly called episcopal communion"¹³¹.

For Dom Gréa, the identification between jurisdiction and hierarchical or ecclesiastical communion is perfect; this equivalence naturally leads him to consider the Pope, the center of all hierarchical communion, as the unique source of all jurisdiction.

◆ If it belongs to the Supreme Pontiff, as the sole and universal source of all jurisdiction in the Catholic, to confer the episcopate and to give to his brothers the stable title of spiritual power, it belongs to him, all the more so, to exercise his own jurisdiction in the whole world by mandates whose limits he himself sets"¹³².

As for Charles Journet, he said:

◆ To the Pope, (the power of jurisdiction) is given immediately by Christ, immediately after the valid election To the bishops it is given through the Pope: the Savior^ says Cajetan again, spreads his power first over the head of the Church, and thence over her body (...). When the Supreme Pontiff, by himself or by others, invests the bishops, the jurisdiction which they receive in their own right does not come to them directly from God, it comes to them directly from the Supreme Pontiff, to whom Christ gives it in a plenary way, and from where it descends to the bishops: a little like the pulsations of life, which begin in the heart and which, from there, are transmitted to the other organs And this is why the Supreme Pontiff should not be considered as merely appointing bishops,

130 Dom GREA, *op. cit.* p. 246

131 *Op. cit.* p. 249.

132 *Op. cit.* p. 263.

who would receive their proper and ordinary authority directly from Christ, but as conferring episcopal authority himself, after having received it from Christ in an eminent form"¹³³.

Among the defenders of this thesis, we could still list the illustrious names of Perrone¹³⁴, Palmieri¹³⁵, Tanquerey¹³⁶, Van Nort⁵⁰, Billot⁵¹ etc...

In short, the authors of this period maintain, almost all of them, that the jurisdiction granted to the bishops is conferred immediately by the Pope who is like the unique source of it. Eminent theologians of the XVI^e or XVII^e century, such as Cajetan, Soto, Bel- larmin (...) are in fact the theological references of our authors, who rely on them with all the confidence that their reputation inspires

III - 2 Jurisdiction of the Bishop over the Universal Church

III - 2. 1 The problem of titular bishops at the First Vatican Council

Although we have already spoken in Chapter I about the events and discussions that took place at Vatican I, we consider it opportune to return to a particular point, chronologically linked with the preparation of this Council, but whose theological issue fits perfectly here, we mean the jurisdiction of the titular bishops, i.e., of the bishops without a diocese to administer. We will briefly mention the debates that arose from the convocation of the first Vatican Council concerning the right of "titular" bishops to participate in the Council.

During the preparation of Vatican I, the Central Commission commissioned Bishop Angelini, one of its consultants, to make a report on the question of whether the titular bishops should be called to the Council. This report was presented and discussed at the meeting of

ejusdem corporis: (...) sub altero aspectu, nullam aliam potestatem habent, quam eam, quae eis *conceditur seu communicatur*-, haec autem extraordinaria potestas Apostolica Christo ipso data est cum subordinatione ad Petrum quoad exercitium, ut superius notavimus, episcopis autem quoad proprias dioeceses a Romano Pontifice *tribuitur ac communicatur*.

48. D. PALMJERI, *op. cit.* p. 450: "Defendimus itaque plenitudinem potestatis Romani Pontificis in universam Ecclesiam esse talem, ut vel formaliter vel virtualiter complectatur omnem potestatem qua Ecclesia regenda est et regitur, ut idcirco sit **immediatus fons a quo est iurisdictio Episcoporum**. Haec est sententia quam Caietano in tract. *de auctoritate Papa et Concilii*, c. 3, atque Dominico Soto in quartum d. 20. sequitur Bellarminus *de Rom. Pontif.* 1. 4. c 22. seq. (...)".

49. A. TANQUEREY, *Synopsis theologia dogmatica fundamentalis*. Pars prima, revised and corrected edition by J. B. Bord, Desclée & socii, Parisiis-Tornaci-Romse, 1942, n. 994, p. 663, states that this opinion is *probabilior*.

50. G. VAN NOORT, *op. cit.* p. 219: "Episcopi jurisdictionem in greges suos *probabilius*

133 C. JOURNET, *op. cit.* p. 491.

134 J. PERROXE, *op. cit.* p. 268: "Dicimus sub duplici respectu tum Apostolos tum episcopos considerari posse, quatenus nempe unum constituunt corpus et individuum cum ipsorum capite, et quatenus singillatim sumpti singularia membra sunt

non nisi mediante Romano Pontifice a Deo accipiunt".

51. L. BILLOT, *op. cit.* p. 682: "Et nos quidem (...) communissimam et valde rationabilem sententiam quae in **Pontifice proximum agnoscit jurisdictionis episcoporum fontem**, pluribus argumentis prosecuti sumus".

17 May 1808¹³⁷. The opinion of the theologians and canonists on the Commission far from unanimous. The question of titular bishops exercising actual jurisdiction, as in the case of apostolic vicars, was resolved fairly quickly, and the common opinion recognized their right to take part in the Council. On the other hand, opinions were sharply divided on the participation of Bishops without any present jurisdiction. The Central Commission did not decide the problem on the legal level. It decided that all the titular bishops *should be* summoned to question had been put to the rapporteur

On 14 March 1869, at the request of Pius IX, the Commission resumed its examination of this question. Its conclusion remained unchanged: all the bishops should be summoned. However, the Secretary took care to give, in his report, the reasons for this decision¹³⁸. After examining them carefully, the Pope approved the Commission¹³⁹. The titular bishops were all admitted, without exception. The Pope treated them in the same way as the other bishops, extending to them also *the obligation* to come to the Council¹⁴⁰.

The *appendix*¹⁴¹, attached to the minutes of the session of May 17, 1868, which we mentioned earlier, lists the authors and theologians who were opposed to the right of suffrage for titular bishops and those who were in favour of it. Among the former Melchior Cano, Suarez, Schmalzgrueber; among the latter, Reiffenstuel, Gonzalez-Tellez, Ferraris, Devoti, Philips, Bolgeni and Capellari (the future Gregory XVI). To this second list, Bishop Angelini's *appendix* added the indirect testimony of Benedict XIV in his *Letter to the Cardinal Deacon delle Lanze* (August 4, 1747) and that of Pius VI in his *Brief to Cardinal de la Rochefoucauld* (May 10, 1791). Moreover, the position of Father Bolgeni¹⁴² was set out with praise. The latter considers that two jurisdictions should be distinguished in the person of the bishop, one particular, the other universal. Every bishop, as a bishop, possesses and can exercise

137 The account is found in MANSI 49, 492-493.

138 MANSI 49, 525-526.

139 MANSI 49, 527.

140 It is interesting to note the evolution of theological thought on this subject between the statements of the Code of Canon Law of 1917 and that of 1983. We read about participation in Ecumenical Councils:

In *CIC* (1917), can. 223 § 1: "Vocantur ad Concilium in eoque ius habent suffragii deliberativi: 1° (...), 2° Patriarchae, Primates, Archiepiscopi, Episcopi *residenciales*, etiam nondum consecrati, 3° (...)-. And in § 2: "Etiam *Episcopi titulares*, vocati ad Concilium, suffragium obtinent deliberativum, nisi aliud in convocazione expresse caveatur".

In *CIC* (1983), can. 339: "Ius est **officium omnibus et solis Episcopis** qui membra sint Collegii Episcoporum, ut Concilio Ecumenico cum suffragio deliberativo intersint".

141 This *appendix*, written by Bishop Angelini, explains in detail the reasons given in the report of May 17, 1868. It can be found in MANSI 49, 494-495.

142 The position of Father Bolgeni has already been explained in Chapter I (cf. paragraph III- 3)

jurisdiction as a member of the Episcopal Body, in full union with and submission to the Pope, head of that body. In virtue of this universal jurisdiction, the bishop is entitled to participate in the Council.

When, at the request of Pius IX, the problem was again examined 14 March 1869, the minutes described as *sodissima distin- zione*¹⁴³, the distinction between particular and universal jurisdiction, which originates in the ordination common to all bishops, and which consists precisely in the right to teach and govern the whole Church¹⁴⁴. This universal jurisdiction, which each Bishop possesses in virtue of his ordination, makes him capable, on the occasion of an Ecumenical Council, of participating, in union with and under the authority of the Supreme Pontiff, in the government of the universal Church. The Central Commission, through the mouth of its representative, Bishop Angelini, did not specify whether this universal jurisdiction was conferred directly by God or whether it was given mediately by the Supreme Pontiff at the very moment of the episcopal ordination carried out in the Catholic communion, as J. B. Bolgeni also maintained

III - 2. 2 The position of theologians in relation to the jurisdiction of the bishops over the universal Church and its origin

It must be recognized that few theologians of the years following the first Vatican Council affirm, following Father Bolgeni, that if the particular jurisdiction of the bishops is indeed directly and immediately pronounced by the Pope, on the other hand, the universal or collegial jurisdiction of the bishops over the universal Church is conferred upon them directly by God in virtue of their consecration.

We could quote Dom Gréa, who seems to recognize the existence of this double jurisdiction in the person of the residential bishop, although his position does not always seem to be uniform in his work:

"The universal Church precedes, in the sight of God and in the order of His works, the particular Church, which is only the appropriation of the whole to each of its parts. The bishops, therefore, have a universal power which by its nature extends over the whole Church. This power is the very communion of the episcopal order and is distinct from their title, by which they are established as the proper bishops of a particular

143 This *very relevant* distinction (*sodissima*), which the minutes speak of, between the particular and the universal jurisdiction of the bishops is valuable insofar as it highlights the power which the bishop enjoys over the universal Church, independently of any pastoral charge over a particular diocese. However, it should not be inferred from this that these two jurisdictions are, ontologically speaking, truly distinct in their origin and therefore separable in their formal reasoning. The Second Vatican Council (LG21) will tell us that episcopal consecration confers the *munus regendi*, which is at the root of every power of jurisdiction

144 "which attaches itself to the ordinance common to all the vestry, and which consists in the right to teach and govern the whole Church, which has come about because in the Councils the episcopal body was united with the Pope for the universal affairs of the Church" (MANSI 49, 525).

people"¹⁴⁵ .

This power will belong to all bishops, even those who are not in charge of a particular Church. Its *most solemn manifestation* is the Ecumenical Council. But, at the same time, Dom Gréa distances himself from Father Bolgeni concerning the origin of episcopal jurisdiction. For him, this unique virtue by which the episcopate acts is communicated by the head to the members:

"The head communicates all action to the members, and the members, receiving it from him, unite and associate with him to act in his virtue which becomes their virtue, teaching with him in the same magisterium the one doctrine of truth, commanding with him by the same authority, making laws and passing sentences with him"¹⁴⁶ .

In England, C. Augustine OSB, following J. B. Bolgeni, distinguishes in the residential bishops a double jurisdiction: the particular jurisdiction over the own diocese and the universal jurisdiction proper to be exercised in a collegial way¹⁴⁷ .

According to C. Journet,

"In addition to the particular jurisdiction which they possess **in their own right**, the bishops, taken **collegially**, in virtue of their close union with the Sovereign Pontiff, participate in the universal jurisdiction which resides in the Sovereign Pontiff in his own right....

The particular jurisdiction of the bishops is distinct from universal jurisdiction; it is added to it not to give more power, *majus in potestate*, but several powers, *plures potestates*.

The distinction of two episcopal jurisdictions, which would overlap in the person of the residential bishop, is not, however, a common opinion among theologians of that time

There are many theologians who will not follow Father Bolgeni on the question of the origin of the jurisdictional power of the Episcopal Body and who maintain that the supreme authority belongs to the Body of Bishops only because of its head. According to them, this head can associate all its members, when it deems it appropriate, with the exercise of its supreme authority *by the communication of its power to them.*, the authors think of the Ecumenical Councils, whose decisions emanate both from the Episcopal Body and the Pope, who is the source of all authority

The theologian Billot strongly advocates the immediate origin of all episcopal jurisdiction, both particular and collegial, from the Supreme Pontiff: *Since he is always the stone of the Church, the one who confirms his brethren, and the shepherd of both lambs and sheep, he is therefore the sole source and*

145 Dom GREA, *op. du*, p. 187.

146 *Op. cit.*, p. 188.

147 C. AUGUSTINE, O.S.B., *A commentary on the new code of Canon Law*, vol. II, Clergy and Hierarchy, St. Louis and London, 1928, pp. 220-221.

*foundation of the supreme power of government in the whole episcopal body*⁶³

The theologian D. Palmieri stands out as an opponent of the theory of J. V. Bolgeni. For him, it is the Pope who attributes to the bishops the power that they exercise in the Ecumenical Council. The divine right of the bishops would only be, according to Palmieri, a kind of disposition that makes the bishop capable of exercising the power over the universal Church in union with the other bishops and under the dependence of the Pope. He thus affirms:

However, the bishops, both individually and collectively, do not have in themselves this power to make laws for the universal Church; they have not received it immediately from God, but can only receive it from the Roman Pontiff, when he summons them in virtue of his supreme power G.

The power to make laws for the universal Church is an act proper to the *suprema potestas*; therefore this power does not in itself belong to the bishops, either individually or collectively. And such power is not conferred directly

63. C. JOURNET, *op. cit.* p. 501.

64. L. BILLOT, *op. cit.* p. 563. to the body of bishops, scattered over the face of the earth, or gathered in Synod (...).

why we must reject the assertion of Bolgeni, that seeker of new opinions, who maintains that universal jurisdiction is given immediately by Christ to the bishops, not taken individually, but in so far as they constitute an episcopal body united to its head, the Roman Pontiff. Christ has given universal jurisdiction **to the head alone**, and **through it he communicates to the body**, which is one **with the head**, the power to participate in the exercise of universal jurisdiction¹⁴⁸. Not without fear of wearying the reader with an excessively long enumeration, we deem it appropriate to quote two more authors, G. Wilmers and F. X. Wemz, who wished to react against the *Bolognese* position, which seemed to them to jeopardize the primatial power of the Pope, as it had been defined at the first Vatican Council. The theologian G. Wilmers¹⁴⁹, following in the footsteps of Father Palmieri, formulated and developed in his work *De Ecclesia* a proposal to refute the opinion of Father Bolgeni :

"Apart from the jurisdiction which they receive from the Supreme Pontiff, the bishops do not possess any other universal jurisdiction conferred by Christ even though the Apostolic College continues in them as in its members"

In his turn, the canonist F. X. Wemz considers the question of origin-jurisdiction of the College of Bishops in his *Jus Decretalium* in connection with the two chapters *De Episcopis* and *De Conciliis Oecumenicis*. In essence, he

148 D. PALMIERI, *Tractatus de Romano Pontifice*, Editio altera, Prati, 1891, pp. 671-672.

149 G. WILMERS, *De Christi Ecclesia*, Ratisbonae, 1897, Lib. III, c. III, pp. 366-370.

rejects the doctrine of universal or collegial jurisdiction conferred immediately by God. He sees in it an incompatibility with the doctrine of the primatial power conferred by Christ on Peter alone:

◆ The opinion of Bolgeni, which derives the **particular** jurisdiction of the bishops over their dioceses from the Sovereign Pontiff, must in no way be admitted but holds that a certain universal jurisdiction is conferred upon them, together with the episcopal character, immediately by God, not in an individual capacity, but as constituting one body. Indeed the doctrine held by Bolgeni cannot fail to be called new (...). Finally, the Catholic doctrine of the primacy of jurisdiction granted to Peter alone cannot be reconciled with Bolgeni's assertions"¹⁵⁰.

He further states in his chapter on the Ecumenical Councils:

"Still less can one approve of Bolgeni's sentence that Christ has given **the bishops directly a certain jurisdiction** over the universal Church, not in so far as they are taken individually but in so far as they form one body with the Roman Pontiff. For universal jurisdiction is conferred immediately by Christ on the one Supreme Pastor of the Church, while the jurisdiction which the Bishops, legitimately gathered in an Ecumenical Council, exercise over the universal Church is given to them by the Roman Pontiff and always remains subordinate to him"¹⁵¹.

We take the liberty of mentioning A. Tanquerey¹⁵² and G. Van Noort Van Noort¹⁵³ among the theologians who do not recognize the existence of two episcopal jurisdictions, one universal, which would be conferred directly by Christ at the moment of consecration, the other particular, attached to a portion of the people of God, which would have its immediate origin in the Supreme Pontiff

150 F. X. W. R. N. Z., *Jus Decretalium*, Tomus II, Romae, S. C. De Propaganda Fide, 1899, Tit. XXXV, n. 738, pp. 884-885.

151 *Op. cit.* Tit. XL, n. 844, p. 1065.

152 A. TANQUEREY, *op. cit.* pp. 660-661: "Episcopi per orbem dispersi et cum R. Pontifice uniti, unum corpus efformant quod universali Ecclesiae praeest. Non exinde inferas episcopos gaudere duplici jurisdictione: una particulari in sua dioecesi quam tenent a R. Pontifice; alia universali quam a Christo recipiunt in consecratione: nam episcopis inest una tantum jurisdictio, qua greges sibi commissos immediate pascunt et S. Pontifici consentiunt in totius Ecclesiae regimine (...). Episcopi in Concilio Ecumenico congregati ex jurisdictione a R. Pontifice in eis derivata, ad Ecclesiae gubernationem concurrunt".

153 G. VAN NOORT, *op. cit.* p. 221: "Ceterum dicendo, omnes episcopos, prout simul cum Rom. Pontifice unum corpus constituunt, universali Ecclesiae praeesse, non intendimus duplicem in episcopis adstruere jurisdictionem: **unam particularem**, quam immediate a Pontifice recipiunt, et **aliam universalem**, quam ipse Christus iis immediate conferret in consecratione episcopali. Minime. Putamus episcopos non alia pollere jurisdictione puneter eam, quam a Rom. Pontifice accipiunt".

111 Does the College of Bishops possess the power jurisdiction over the universal Church?

112 - 3.1 Position of authors interpreting the Primacy of Jurisdiction defined in Vatican I in a maximalist sense

The asserted opposition of some theologians, such as D. Palmieri, to the theory of Father Bolgeni, according to which the bishops enjoy a double jurisdiction, particular on the one hand, conferred immediately by the Supreme Pontiff, and collegial on the other, deriving directly from Jesus Christ, will have the consequence of leading them to reject the doctrine of the College of Bishops as the subject of the supreme power of jurisdiction over the universal Church. They admit at most that, on the occasion of the Ecumenical Councils, the Pope associates with himself the resident bishops who already administer a portion of the Church, as well as the prelates or abbots of his choice, and confers upon them a sort of participation in his supreme power of jurisdiction over the universal Church.

Thus, for D. Palmieri the dual subject theory is not tenable:

♦ By the institution of Christ, the *potestas suprenia* in the Church is not twofold, i.e., there is no twofold subject of the supreme power over the universal Church, but, as the Church is one, so is its head; moreover the *potestas suprema* is the *potestas* of the Primate, and *its subject is one*, namely the Roman Pontiff (...). Indeed, **the institution of the Primate excludes the *potestas suprema* from being exercised by all the Pastors**¹⁵⁴.

This theory of the double subject seems to him incompatible with primacy, as it was defined at the first Vatican Council. Moreover, it seems to him incompatible with the doctrine of the immediate collation by the Supreme Pontiff of the power of jurisdiction, which, according to him, is commonly taught (cf. pp. 52-53).

The canonist E X. Wenz takes a similar position to that of D. Palmieri: he rejects any right of participation of the titular bishops in the Ecumenical Council¹⁵⁵ and makes the Supreme Pontiff the source of all jurisdictional power in the Church.

D. Palmieri concedes, however, that the bishops can participate in the supreme power, insofar as this supreme power is a prerogative of the head who communicates it to the bishops on the occasion of the Councils:

"Indeed, it is true that the supreme power is also found in the body of pastors in so far as it belongs properly to its head; by the authority of the latter, it can be that the other pastors contribute through it and with it to the exercise of the supreme power (...). The bishops gathered in Council are therefore, by divine right, fit to exercise this power, in such a way that

¹⁵⁴ D. PALMIERI, *op. cit.*, p. 672,

¹⁵⁵ F. X. WERNZ, *op. cit.* p. 1071: "Episcopi vero titulares cum iurisdictione careant tum illa universali a Bolgenio conficta tum particulari, et negotia Conciliorum ecumenicorum potestate jurisdictionis, non ordinis transigantur, ad Concilia universalia **vocari non debent**."

they receive it from their head, namely the Roman Pontiff¹⁵⁶.

Regarding D. Palmieri, Father Hamer¹⁵⁷ points out that if this author had had all the documents relating to the work of the First Vatican Council, his position would have been different. The *Zinelli Report*, the *Kleutgen Scheme*, the *Relatio Kleutgen* seem to have been absolutely unknown to him. It is good to know that the seventh volume of the *Collectio Lacensis*, which contains the complete acts and works of the Council, among them the report of Bishop Zinelli, appeared only in 1890; and, as we said in the first chapter, the schema of Fr. Kleutgen was published in the *Mansi Collection* only in 1927.

The positions of authors such as D. Palmieri and F. X. Wernz, who were otherwise so deserving in the field of sacred sciences, would have important repercussions on many theologians or canonists of the following decades, especially because of their authority and great fidelity to the Roman See. Thus, some have maintained that the Ecumenical Council had only an authority delegated by the Pope. In this regard, it should be noted that in the eyes of G. Alberigo¹⁵⁸, D. Palmieri and F. X. Wernz are largely responsible for the divergence between a well-rooted theological tradition and a one-sided and reductive interpretation of the Primacy of Jurisdiction defined in the first Vatican Council.

III - 3.2 Evolution of theological thought following publication of the Acts of the First Vatican Council

A - Position of Dom Gréa and L. Billot

It was not until Fr. Antonius Straub¹⁵⁹, who was well acquainted with the *Collectio Lacensis*, which he quoted in his work *De Ecclesia Christi* (1912), that the weakness of the arguments put forward against the thesis of the double subject of the supreme power of jurisdiction was finally shown. Contrary to the opponents of J. B. Bolgeni, he is of the opinion that the immediate communication by the Pope of the power of jurisdiction does not prevent the Pope alone, on the one hand, and the Pope united with the College of Bishops, on the other, from being *two inadequately distinct subjects* of the supreme power.

Dom Gréa's position is also noteworthy:

The power of the episcopate in the government of the universal Church is exercised in an ordinary way by the Council, and by the less conspicuous assistance which the scattered bishops, always united in the dependence and under the impulse of their head, lend to each other unceasingly for the maintenance of faith and discipline (...)

sovereign and principal action belongs to the Pope. But the bishops themselves, in so far as they are associated with him as ministers of the

156 D. PALMIERI, *op. cit.* p. 672.

157 J. HAMER, *The Episcopal Body united to the Pope, its authority in the Church, according to the documents of the first Vatican Council* in *RSPT* 45 (1961), p. 28.

158 G. ALBERIGO, *op. cit.* pp. 450-452.

159 A. STRAUB, *De Ecclesia Christi*, Œniponte, Innsbruck, 1912, n. 795-796, pp. 157-161.

universal Church, are called to take part in it. They then appear to be clothed with a power which is not limited to their particular flocks (...)"¹⁶⁰

Dom Gréa also makes an interesting comparison with the mystery of the divine processions in the Trinity:

◆ As the Father gives the Son to operate with him, and as the operation remains entirely the Father's operation even though he communicates it to his Son, so the Vicar of Jesus Christ, head of the Church and of the episcopate, gives the episcopate to act with him and through him, although the action remains entire and indivisible and is always his own action in the principal capacity. The true greatness of the episcopate, therefore, is not to share with its head and to divide the authority which is indivisible, but it consists in receiving from him and exercising with him this same and unique authority"¹⁶¹.

This analogy with the mystery of the Trinity, in spite of its imperfection, has the advantage of making us penetrate the mystery of the Church. Dom Gréa also speaks of *hierarchical circumincession* since the Head of the College always lives and acts in the Body of Bishops, and even of *mystical concelebration* at the Council between the Vicar of Jesus Christ and the Bishops in the irrefragable declaration of a truth¹⁶².

The position of L. Billot on this problem already shows a more advanced and systematic maturation. In his Thesis XXVII dealing the episcopate, he states:

"The monarchy of the Church is a *sui generis* monarchy.

Even though it retains in all the integral foundations of monarchical law, it also implies the jurisdictional power of each of the bishops, so that the episcopal body united at its head is also recognized as suitable particular exercise of supreme power"¹⁶³.

Then he explains frankly:

"Moreover, nothing is more explicit, from the beginning in Catholic doctrine, than the dogma of the supreme power of the world episcopate, **whether gathered in an Ecumenical Council or dispersed over the face of the earth.** The words of St. Cyprian in "De Unitate Ecclesiae" n. 5: "The episcopate is one, in which each member participates jointly and severally in the whole, applies perfectly to this collegial power of all the bishops united to the Pope"¹⁶⁴.

According to Cardinal Billot, since the authority of the College does not come from the sum of the partial authorities, each bishop acting in communion with the others can and does, not because of his own virtue but because of the whole of which the parts are unanimous, what the whole episcopate can and

¹⁶⁰ Dom GREA, *op. cit.*, pp. 209-210.

¹⁶¹ *Op. cit.*, p. 210.

¹⁶² *Op. de.*, p. 124.

¹⁶³ L. BILLOT, *op. cit.*, Thesis XXVII, p. 561.

¹⁶⁴ *Op. cit.* pp. 564-565.

does It is interesting to note that L. Billot adheres to the doctrine of collegiality as conceived by the Fathers of the Deputation of the Faith at Vatican I.

B - Position of A. Tanquerey and G. Van Noort

A. Tanquerey states in a very discreet way that a certain power over the universal Church has been conferred on the College of Bishops: so that *the supreme power of teaching, sanctifying and governing the faithful in the universal Church does not belong to the individual bishops but "to the whole College"*¹⁶⁵. In the new edition¹⁶⁵ of his work (1942), after having quoted canon 228 of the Code of Canon Law published in 1917: *The Ecumenical Council (confirmed by the Roman Pontiff) enjoys supreme power over the universal Church*, A. Tanquerey adds that the Ecumenical Council and the Supreme Pontiff are not, however, two subjects of the supreme power of jurisdiction: in fact, the Council does not possess this power, except *ratione R. Pontificis* (by virtue of the power of the Supreme Pontiff), whose authority informs the decisions and without which there can be no authentic Council.

G. Van Noort devotes a whole chapter in his treatise on the Church to the bishops as a collective Although for him all jurisdiction comes from the Supreme Pontiff, he recognizes :

◆ When all the bishops scattered throughout the world, but in common accord with Peter, feed their Churches, by that very fact they concur together with the Roman Pontiff in the government of the whole flock of Christ. Moreover, when the multitude of bishops, gathered in Synod, are called by the Roman Pontiff to unity of action as that of a single agent, all participate *in solidum* in the government of the universal Church, although in virtue of the power of the Roman Pontiff which is communicated to them"¹⁶⁶.

It is clear that, for him, the College of Bishops is subject to the power of jurisdiction and that this power can be exercised according to the conciliar form when the bishops are gathered around the Pope, or when, dispersed throughout the world, they agree with the Supreme Pontiff on a decision concerning the government of the universal Church

III - 3.3 Charles Journet's position (1941) on the collegial power of bishops

Charles Journet, in his famous work *VEglise du Verbe Incarné*, in section III of his chapter VIII¹⁶⁷ devotes a development of about ten pages on the

165 A. TANQUEREY, *Synopsis theologia dogmatica fundamentalis*. Pars prima, revised and corrected edition by J. B. Bord, Desclée & socii, Parisiis-Tornaci-Romæ, 1942, p. 661.

166 G. VAN NOORT, *op. cit.* pp. 221-222.

167 C. JOURNET, *op. cit.*, pp. 500-511. The plan of this section already reveals the seriousness of the investigation and exposition of the theme of collegiality, which was very rarely mentioned at the time. We are transcribing it so that the reader may be aware of the theological and methodical work already done in this field by the famous Swiss theologian:

1. The collegiate jurisdiction of the bishops united to the Pope.

collegial power of the bishops, of which we allow ourselves to quote the significant title:

"However, the supreme jurisdiction is **shared** by the bishops associated with the Supreme Pontiff and forming the College of Bishops, scattered throughout the world or gathered in Council"¹⁶⁸. For him, the power to govern the universal Church resides first in the Supreme Pontiff and then in the College of Bishops which is united to him:

This power can be exercised either by the Supreme Pontiff alone, or jointly by the Supreme Pontiff and the College of Bishops the power of the Supreme Pontiff alone and the power of the Supreme Pontiff united with the Apostolic College constituting not two adequately distinct powers, but one supreme power considered on the one hand in the head of the teaching Church, where it resides entirely and as in its source, and on the other hand both in the head and in the body of the teaching Church, to which it is communicated and in which it finds its plenary and integral subject"¹⁶⁹.

We note that the thought of C. Journet is quite close to the feeling of the Fathers of Vatican I. It is worth noting the precision of his theological position on the theory of the two inadequately distinct subjects, of which Father Kleutgen already spoke in his *Relation* on the two modes of exercising this collegial power, either in the conciliar form of the episcopate dispersed throughout the world. Even if, for him, all jurisdiction derives from the Pope, the fact remains that the whole of his thought is very faithful to the relations of Vatican I which we have already mentioned in the preceding chapter and anticipate to a large extent the conclusions of Vatican II on collegiality

In conclusion, this overview of the period after the First Vatican Council, carried out by means of an examination of the positions of a number of authors who were particularly significant in that period, has allowed us to see that the theme of the collegial power of the bishops over the universal Church has not been fully favoured by the theological current. The definitions of the First Vatican Council on the Primacy of jurisdiction of the Supreme Pontiff absorbed the attention of many authors, who did not dare to envisage a supreme power of jurisdiction residing in the moral person of the College of Bishops

2. Its scriptural foundations.

3. The Episcopal College dispersed in the world: its distinctive signs.

4. The College of Bishops meeting in Council.

5. Its members are agents of Christ, not of the people.

6. the Church of the Holy Ecumenical Councils.

168 *Op. cit.* at 500.

169 *Op. cit.* pp. 501-502.

united to the Pope, for fear of seeing in it an opposition to the newly defined doctrine. The ignorance or failure of theologians of that time to take into account the statements of Archbishop Zinelli and the work of Fr. Kleutgen prevented these same authors from taking a calm look at the texts of Vatican I and associating them with the doctrine of collegial power over the universal Church, which was in no way incompatible with the content of these same texts

The positions of brilliant authors such as D. Palmieri and F. X. Wernz are significant in this regard. Palmieri and F. X. Wernz, whose influence will continue to be exerted among theologians of the first half of the 20th century

first succeeded, with a certain independence, in speaking of the Church, its mystery and its hierarchy under a much more global aspect; the second, although still very much influenced by ultramontane ideas, began to elaborate a mature and systematic reflection on the subject of the supreme power of the Episcopate over the universal Church, even considering the latter dispersed surface of the earth. A special place and merit go to Charles Journet, who was able to continue the reflection undertaken and to make the most of the official acts of the First Vatican Council, published in Mansi

Chapter III

The question of the relationship Primate - College of Bishops in the period preceding the Second Vatican Council

The announcement of the Second Vatican Council, made by Pope John XXIII on 25 January 1959, the feast of the Conversion of St. Paul, in the Basilica of St. Paul Outside the Walls, as well as the relationship established from the outset between its project and the unity of the Church, gave rise to an abundant literature in all fields of theology, in preparation for the conciliar deliberations which were to begin in October 1962. Many theologians, historians and exegetes felt that they had to deal with the important theme of ecclesiology, remembering that the First Vatican Council had been abruptly interrupted when the outline of the second constitution *De Ecclesia Christi*, dealing more specifically the episcopate, had not been submitted for discussion by the Council Fathers.

The idea of episcopal collegiality and the very word collegiality have captured the attention of theologians and have been the occasion of many studies, analyses and debates during the period leading up to the Second Vatican Council. In this chapter we will focus on some of the currents of ideas which marked this fruitful period and we will try to see how this doctrine of episcopal collegiality, as it appears in the relationship between Primate and Episcopate, was perceived in the Catholic world.

The primacy of jurisdiction, which the First Vatican Council had defined as belonging to the Roman Pontiff, gives way to the exercise of a supreme power of jurisdiction over the universal Church exercised by the whole Episcopal Body in union with the Supreme Pontiff. We shall consider successively the position of some of the more renowned theologians in relation to the question of the uniqueness or multiplicity of the subjects of this supreme power, which will lead us to consider three distinct positions: the wholly - collegial thesis, the purely monarchical thesis, which admits of only one subject of the supreme power, and finally the mixed thesis, which envisages a double subject or two inadequately distinct subjects. We shall voluntarily limit ourselves to the period preceding the conciliar debates concerning the

drafting *Lumen Gen- riuni* Constitution and we shall quote mainly from authors of this period.

1 - THE EPISCOPAL COLLEGE AS THE SOLE SUBJECT OF THE SUPREME POWER OF THE CHURCH

The integrally collegial thesis asserts that the College of Bishops is the sole subject of the supreme power of the Church. On the other hand, according to this thesis, supreme power can be exercised in two ways:

- or *in a collegial manner*, by the College of Bishops (which necessarily includes the Supreme Pontiff, who as head of the College is an essential constituent element)

- or *according to the personal mode*, by the Roman Pontiff who, as head of the College, represents the College itself, whose power he in fact exercises.

This thesis is supported by authors who, even if they favour different objectives or themes, all have the preoccupation of enhancing the dignity of the episcopate against an excessive extension of the function of the Primate of the Roman Pontiff¹⁷⁰. This concern, if it conditions in part the work undertaken in the historical, biblical and patristic domains, nevertheless allows us to underline with force certain fundamental elements of the relationship between Primate and Episcopate. We will pay special attention to the position of Karl Rahner, because of the long development he has devoted to this thesis and the leading role he plays in relation to other theologians who adopt his way of seeing

1 - 1. theological premise: the significance of the divine institution of the college of apostles

1- 1.1 *The logical priority of the College of Apostles*

This thesis is based on a fundamental postulate of a theological nature: *Jesus founded a College, in which all the members have power only and only insofar as they are members of this College*¹⁷¹. According to these authors,

170 Cf. K. RAHNER, *Über das Jus divinum des Episkopats*, in K. RAHNER - J. - RATZINGER, *Episkopat und Primat*, Herder, Freiburg-Basel-Wien, 1961, pp. 60-125; G. DEJAIEVE, *Le Premier des évêques. Nouvelle Revue Théologique* 82/6 (1960), pp. 561-579; Y. CONGAR, Preface to the work: *L'Épiscopat catholique, Collégialité et Primauté dans les trois premiers siècles de l'Église* by Jean COÛON, Coll. *Unam Sanctam* 43, Les Éditions du Cerf, 1963, pp. 7-13; J. COLSON, *L'Épiscopat catholique, Collégialité et Primauté dans les trois premiers siècles de l'Église*, Coll. *Unam Sanctam* 43, Les Éditions du Cerf, 1963.

171 K. RAHNER, *op. cit.*, p. 71.

this postulate makes it possible to overcome otherwise insurmountable contradiction: if, in fact, each Apostle had received full powers for himself as an individual and not as a member of the College, this could only have happened by mandate of Christ or in virtue of the office of St. Peter. In the first case, the dependence of the Apostles on Peter could not be explained. In the second case, it would not be possible to explain the Apostles' belonging to Christ, since each Apostle would have received full powers directly from Peter as a member of the College considered as an organ of Peter. This is how K. Rahner expresses himself:

"If someone were to say: Christ confers on each Apostle as such his power, but with the order to remain subject to Peter in the exercise of this power, under pain of doing an invalid act otherwise, he would come to say something objectively very right. But he would only have bypassed the obstacle without answering the question of how a power completely dependent on the disposition of a third party can be conferred on a subject, without this power being objectively different from the *potestas* delegated by this third party who would be like the source"¹⁷².

Only the constitution of the College of Apostles, organically structured according to the will of Christ, makes it possible to reconcile the belonging of all the Apostles to Christ and the dependence of the other Apostles on Peter:

If Christ institutes a College which, as such, has a head endowed with authority and yet possesses real power through him, so that Peter from the beginning is not and cannot be envisaged without the other Apostles and the College is not conceived without Peter, then only on this condition is an Apostle truly an Apostle of Christ deriving his origin from Christ and from his very mission

However, he can only be an Apostle in the context of this College and therefore *sub Petro*[^].

The recognition of the logical priority of the Apostolic College clarifies and guarantees the unity and structure of the College itself. If the unity of the College depended solely on Peter, not by divine right, but on the basis of a human rule that could be reformed according to the will of the Apostles, the very formation of the College would ultimately depend on the good will of a man. If, on the other hand, the unity of the College rested solely on Peter in the sense that each Apostle as a member of the College would have received his own authority from Peter, the members of the College would be functionaries representing Peter but not Christ. Thus according to K. Rahner:

- ◆ If both hypotheses cannot be realized, the only possible solution is

¹⁷² *Op. cit.* p. 72, n. 7.

that Christ founded from the beginning a College as such, in which each Apostle possesses a power which comes to him from Christ, since Christ gave the College as such its power, and Peter possesses this power which belongs to him alone insofar as he was established from the beginning as head of the College"¹⁷³.

For K. Rahner sees Peter's position as the supreme head of the Church only insofar as he is the head of the College of Apostles:

♦ Ontologically and juridically, the Apostolic College constitutes a unity with Peter, its head. It does not exist without Peter and Peter can never be considered without the College. One could say: Peter is the head of the Church appointed by Christ as the head of the Apostolic College. He governs the Church inasmuch as he governs it with the College. He governs **it with the** College and not alone **through the College**. Here we come up again, without having made much progress, with the fundamental logical and juridical problem of the constitution of the Church: the Church is governed by a **College**, without the head of this College being simply the representative of this College appointed by the base. The head vaguely governs the College, without this College becoming simply the executive organ of Peter"¹⁷⁴.

1-1.2. The collegial character of the apostolic succession

The theological considerations of these authors imply the collegial character of the apostolic succession:

The College of Bishops, as the successor to the College of Apostles, is primary in relation to the bishops considered individually, to their rights and duties. The College of Bishops is not the logical sum of the simple bishops made by someone who would look at them as outside, nor even their association arranged successively by themselves or by the Pope. The College of Bishops is the primary entity that succeeds the Apostolic College, which has in the Pope its previously chosen summit, without which the College cannot be envisaged the same way, the Pope is only such in so far as he is the summit of the College"¹⁷⁵.

The prior unity of the College of Bishops, which precedes the individual bishops, thus expresses the unity of the Church, which has a logical priority over the multitude of the faithful and the plurality of Churches in virtue of its divine foundation. For this reason, these authors consider that the relationship between Primate and Episcopate must be situated within the College,

"This College of Bishops always has the Pope as its summit, without whom it would not exist in the least, not even outside of a Council, and without the Pope's primatial power. In fact, this College of Bishops

¹⁷³ *Op. cit.* at 73.

¹⁷⁴ *Op. cit.*, p. 74.

¹⁷⁵ *Op. cit.* p. 78.

always has the Pope as its summit, without whom it would not exist in the least, not even outside a Council. Therefore, precisely when the Pope acts by virtue of his supreme jurisdiction, it is the Episcopate that acts, since when the Pope acts *sex sese*, he acts as Pope and not as a private person, and therefore acts precisely as the head of a College of Bishops *juris divini*¹⁷⁶.

1-2. Premise of a philosophical nature

The theological reasoning is reinforced by an argument of a philosophical nature, which is decisive, according to these authors, in order to find a solution to the problem of the subject of the supreme power of the Church:

"In the final analysis, a society can have only one supreme leadership. A dual supreme governing power (even if one asserts that these two powers are inadequately distinct) seems a priori a metaphysical contradiction. Two supreme powers (if indeed there are two), which would therefore have no higher human authority above them, can only govern two diverse associations; these two powers can be united in a system of alliance, but can never become one and the same, without this dual existence of the supreme directive power being suppressed by the very fact. It is not possible to speak truly of two infallibilities, nor of two supreme authorities, and consequently of two supreme holders of supreme power in the Church. Whether we like it or not, this would be tantamount to denying the true unity of the Church or to recognizing only verbally the supreme quality of one of these two authorities"¹⁷⁷.

It is thus noticeable that, for K. Rahner's rejection of the solution of the two inadequately distinct subjects is categorical; but his position, lacking explicit theological argumentation, is not necessarily convincing.

1-3. The reciprocal inclusion of the Primate and Episcopate relationship

The theological postulate of the priority of the College of Bishops over the bishops taken in isolation and the philosophical postulate of the unity and uniqueness of the supreme authority in society make it possible to solve the problem of harmonizing the relationship between the Pope and the College of Bishops. In fact there is harmonization, according to K. Rahner:

"by conceiving a priori and in all cases a single subject of the

176 *Op. cit.*) p. 80.

177 *Op. de.*, pp. 86-87.

supreme ecclesiastical powers of government, namely the College of Bishops subject to the authority of the Pope as its head, in such a way that an act of the Pope alone and a conciliar act are only different forms and ways of an action of this single subject of supreme ecclesiastical authority"¹⁷⁸. The thesis of the uniqueness of the subject of supreme power in the Church is thus condensed in the affirmation of the *reciprocal* and not only unilateral *inclusion* of the Primate and the Episcopate, even if this does not mean that *this reciprocity is exactly the same on both sides*¹ L

This asymmetry is manifested in the fact that the Pope can act not only collegially with all the members of the College of Bishops, of which he himself is a constituent part, but also personally, as head of the College, with the nuance

"that these are not two acts of two different subjects, but two different modes of proceeding from one and the same subject, differing only in the circumstance that in the one case the one moral subject is scattered over the whole earth, and in the other case it is gathered together in one place and in such a way that the participation and concord of the members of the College with the Head appear more manifestly"¹⁷⁹.

According to Father Congar, it was desirable that the Second Vatican Council, which was about to deal with this matter, should show firstly that *the constitution of the Church includes, in an equally sacred capacity, a power the College of Bishops, succeeding the College of Apostles, and secondly that the power conferred on Peter.... was given to him and his successors be the Head of the College of Apostles and of the Body of Bishops succeeding their College, and to be exercised, as to the regime, in conjunction with the authority of that Body or College*¹⁸⁰.

178 *Op. de*, p. 88.

179 *Op. cit.*) p. 90.

180 Cf. Y. CONGAR, preface to the work, *L'Épiscopat catholique. Collégialité et Primauté dans les trois premiers siècles de l'Église* by J. COLSON, Coll. *Unam Sanctam* 43, Les Éditions du Cerf, 1963, p. 12. The joint exercise of the power of the primatial authority and the authority of the College implies the double inclusion mentioned above. It is interesting to quote the entire passage (*op. cit.*, p. 12) where Y. Congar develops his thought, similar to that of K. Rahner, on the collegial character of the Church, even if the statement is more nuanced and less abrupt: *11 there is a twofold source of pastoral power in the Church, or rather a single source, Jesus Christ, but springing forth at two points, in Peter and in the College of Twelve as such. The fact that it springs from the Twelve means that the Church is not purely monarchical, but **collegial**: pure papalism is excluded in the same way as pure episcopalism or conciliarism. The two springs, which come from the same source, also constitute a single reality, a single organism, and achieve a single end. From this it follows that if the Pope is constituted head and has a power of his own received from Christ, and not only because of his place in the College, this power is nevertheless given to him **so that he is head of the College**; he can only exercise it in the body, without this subordinating him juridically to the bishops or to their assembly in Council. **The Pope has supreme power only as *Caput collegii*, and therefore**

The theologian G. Dejaifve, in his turn, underlines this reciprocity between Primate and Episcopate:

The relationship between the Pope and the Bishops is reciprocal: just as the Bishops have power over the whole Church only within the Apostolic College, through their union with Peter, so the Pope exercises his primacy only in union with the Bishops and taking into account their collaboration, divinely willed and pre-ordained"¹⁸¹.

In another article¹⁸² published in 1962, G. Dejaifve develops this theme again, starting from the *plenitudo potestatis* which the Pope claims in a personal capacity. According to him, the Pope should not consider it as his exclusive property, but, in accordance with the will of Christ, he should communicate it to the College of Bishops. To do otherwise would be to change

in Collegio, although he has it from an original, proper and in this sense personal title, not from his mere capacity as *Caput collegii*.

It is true that on the magisterial level, Y. Congar recognizes the existence of two subjects of infallibility, inadequately distinct, the Pope and the College of Bishops (Y. CONGAR, *Conclusion in Le Concile et les Conciles, Contribution à l'histoire de la vie conciliaire de l'Église*, Éditions de Chevetogne et Éditions du Cerf, Paris, 1960, pp. 333-334).

181 G. DEJAIFVE, *Le Premier des évêques) Nouvelle Revue Théologique* 82/6 (1960), p. 574. In this article, the author expresses his point of view on the collegial structure of the supreme power: "The Successor of Peter, a bishop among bishops, since he is bound to the See of Rome, is called, by virtue of his inheritance, to continue the function of Peter, that of unifying and coordinating in the same faith and communion the pastoral activities of his brothers, the bishops, as well as looking after whole flock. His specific task as Supreme Pastor is an office of universal regency, exercised both on and within a collegiality.

It is certainly in these two propositions that the delicate balance of the function of the Supreme Pontiff lies. As a factor of unity, the Pope is superior to the other members of the Apostolic College, who participate only jointly, as members and for their share of members, in the universal pastoral ministry, while he himself has a proper and personal right to it. This pre-eminence extends to each of the members and to their collectivity, and this is what the Vatican Council sought to safeguard against the doctrinal deviations of classical Gallicanism.

Yet this power, however high it may be proclaimed, is exercised only within a collegiality, and retains a close relationship with it, since the Pope cannot do without the bishops, who are like obliged auxiliaries to him, in the same way that the eleven were associated with Peter. It is quite certain that these two characteristics of pontifical power were always closely united. The tradition of the first centuries attests to this. If the primatial aspect was frequently emphasized by the Roman See, as it is fitting for authority to assert its rights, which were sometimes ignored, it is no less true that pontifical authority was claimed by the Popes and accepted by the bishops only in the common context of solidarity, in which the first of the bishops appeared as the natural guardian of his brothers, as heir to the prerogatives of Peter. On this point, the Western tradition of the united Church before the schism of the eleventh century does not differ from that of the East.

The Pope and the bishops, therefore, exercise an immediate, though unequal power over the whole Church since the Pope possesses it in a special capacity, as supreme pastor, and the bishop, as a member of the Episcopal Body, which is constituted as a College only by its principle of unity" (pp. 573-574)

182 G. DEJAIFVE, *Primacy and Collegiality at the First Council of the Vatican*, Unam Sanctam n. 39, Les Éditions du Cerf, 1962, pp. 640-660.

the constitution divinely given to the Church by its Founder. He adds:

is not the apostolic power which he holds in its fullness its very nature, a collegial power of which he is, at the same time, the first beneficiary in its totality and *the personified representation?*

This is how canonists understood it in the Middle Ages, in the golden age of scholasticism, long before the Western schism and the conciliar theories"¹⁸³.

Further on he adds, speaking of the first Vatican Council

The Vatican Council has very fortunately specified the extent and extension of this **representation of** the whole Church in person of the Pope. In particular, it has emphasized the independence and full freedom of his personal power, defining that he can exercise this universal authority, both in the area of magisterium and in that of jurisdiction, without requiring the juridical consent of the bishops

Nevertheless, he did not intend to change the very nature of this supreme power, **which is and remains collegial**, even when it is exercised sovereignly by one. Is not this collegiality, moreover, linked to the apostolic mission itself and does it not receive its nature from it, if all power is the prerogative of a mission"¹⁸⁴ ?

A. Michel in his article *Episcopate and Roman Primacy*, opines in turn for this thesis and takes up almost word for word the formulation of G. De Jaifve. Thus, according to him, *the bishops have power over the universal Church only as members of the episcopal collegiality; thus, the Pope exercises his primacy only in union with the bishops, and taking into account their collaboration, sanctioned by divine right itself*TM.

For Jean Colson, *all theology must respect the dogmatic consistency of the Apostolic College as much as that of Peter*¹⁸⁵. This author wanted to study the functioning of collegiality in the first three centuries of the history of the Church. He examines the foundations of collegiality in the New Testament, and in the exchanges of correspondence which have come down to us, he examines the state of the relations of the bishops among themselves and of the bishops with the successor of St. Peter in the See of Rome, and in particular the role of the conciliar or episcopal assemblies of the primitive Church; he considers with special attention the position and the doctrine of St. Cyprian. In his conclusion he mentions :

- The propagation and care of the Gospel was entrusted, in fact, not to *the Apostles*, but to an *Apostolic College*, which very soon went beyond the primitive circle of the Twelve, and was endowed with

¹⁸³ *Op. cit.* p. 658. The author refers to TIERNEY, *Foundations of the Conciliar Theory*, 1955, pp. 87-153 and pp. 141-149.

¹⁸⁴ *Op. cit.* p. 658.

¹⁸⁵ J. COLSON, *L'Épiscopat catholique, Collégialité et Primauté dans les trois premiers siècles de l'Église*, Coll. *Unam Sanctam* 43, Les Éditions du Cerf, 1963, p. 132.

doctrinal and pastoral authority which was communicated to those who continue this Apostolic College through time and space

The question on the agenda is the place of the Episcopal Body in the universal Church, *cum Petro and duce Petro*. In other words, the question of seeing clearly the coordination of two plenary authorities

A simplistic solution would be to remove one of the two, either to affirm that the Pope receives everything from the Council, or to affirm that the Council receives everything from the Pope.

It is possible to conceive of the coexistence of these two plenary authorities if we remember their *concrete* meaning

But what is the concrete content of the Apostolic College sent by Christ? *Go, teach... learning to keep...* That is to say: *teaching* and *leading* the Church.

Why is Peter here? *On this rock I will build my Church... I prayed that your faith would not fail. Strengthen your brothers... Feed my lambs and my sheep...*

Thus, the *concrete* content of Peter's role appears to be different from that of the College of Bishops, in which he has authority as the center, as the *head*, but without substituting himself for it, any more than the latter can substitute himself for Peter. And if the Pope is infallible *ex sese*, *it is* as the head, the centre and the bond of unity in the faith of the Apostolic College. He is the infallible mouth given by Christ to his Body to express, in the last resort, the faith of this Body

unity and infallibility of the Catholic Church rest on the complementarity of the Apostolic College, which infallibly teaches and directs the Church in unity, and of Peter, who is the centre and guarantor of the unity and infallibility of the faith of this College¹⁸⁶.

clear that the position of this author, even if it is extended to the magisterial power and infallibility of the Church, is similar to the theory of K. Rahner, who sees in the College of Bishops united to the Supreme Pontiff the sole subject of the supreme power of the Church

1-4. Moral Norms for the Exercise of Primacy of Jurisdiction Relation to the Exercise of Collegial Power

The exercise of papal primacy is always subject to the respect of norms, not only juridical but also moral. It would therefore be appropriate to go beyond the opinion that an ecclesiastical decision is irreproachable in all aspects, simply because it was issued within the limits of juridical competence. According to K. Rahner, it overlooks the fundamental Catholic conviction that the

186 *Op. cit.*, pp. 132-133.

realms of law and morality do not coincide purely and simply. *Legality and morality, even if they have their origin in ecclesiastical authority, are not identical*¹⁸⁷,

"It cannot be said that human law in the Church is always and everywhere adequately adapted to the nature of things, that is, to the essence of the Church and its ever-changing situation; nor can it be said that such desirable readjustments can never entail a moral duty, but are always a matter of opinion which remains outside of any moral evaluation. possible to hold that such moral principles, even if they cannot give rise to juridically codified norms, can be formulated in a way that is more precise and at the same time more adapted to the various circumstances of the times and to the practical difficulties in the relationship between Primacy and Episcopate"¹⁸⁸.

In conclusion, the thesis which we have called *integrally collegial* insists on the fact that the Pope and the bishops cannot be considered as strangers to each other, but that their functions, though diverse and inammissible, are correlatively *immanent*. The titles of *Vicar of Christ* and *Head of the Church*, which the Pope possesses, would be identified with his title of *Head of the Episcopal Body*. The relationship between the functions assumed by the Pope on the one hand and the episcopate on the other cannot be expressed by absolutely adequate juridical rules, and it is up to the Holy Spirit¹⁸⁹, who

187 *Op. cit.*) p. 123.

188 *Op. cit.*) pp. 123-124. The author refers in particular to the moral duty of consultation of the universal Church on the part of the Pope on the occasion of the dogmatic definition of a proposal, in the exercise of supreme magisterial power.

189 K. RAHNER, *Some Reflections on the Constitutional Principles of the Church, in The Episcopate and the Universal Church*, Coll. *Unam Sanctam* 39, Éditions du Cerf, 1962, pp. 561-562: "Are the de facto relations between the Primacy and the Episcopate in the juridical delimitation of their respective attributions exact and adapted to the nature of things? There is no juridical authority within our reach to decide this question. Only the continuous action of the Holy Spirit can always bring about a practical balance in positive ecclesiastical law and in the concrete respect of this law, in the most favourable way for the good of the Church. If we consider the relations between the two powers from a purely juridical point of view, *there are no clear norms that would prevent the Pope from reserving all power to himself, so as to leave the episcopate of divine right in name only*. In principle, according to what has been said, there is no specific power of the episcopate which the Pope does not have the right or the possibility to attribute to himself. is no higher juridical authority on earth that can declare such a measure invalid in a given case. The judgments of the Holy See are not subject to the control of any human authority. The Pope has the supreme competence. An ultimate right of opposition does not exist and is not possible, for it would destroy the Church as such in its concrete existence. It is not necessary, moreover, because of the promise of the assistance of the Holy Spirit. This constitutes the final and decisive guarantee of a practical balance in the relations between the two powers, which avoids, according to the needs of the different epochs, either the predominance of excessive centralization, or an episcopal action which would compromise the unity of the Church (It is therefore easy to understand why there can be no adequate constitution in the Church, for it is necessary to rely on the Holy Spirit, who can guarantee in

animates the whole Church and sustains its structure, to harmonize the personal exercise and the collegial exercise of the supreme power of jurisdiction over the universal Church, which can never be in opposition

The relationship between Primate and Episcopate is, for the proponents of this thesis, characterized by their reciprocal limitation and mutual dependence; the moral definition of the relationship complements its juridical configuration, which is considered insufficient and inadequate to the nature of the Church, that is, to the ontology of communion. However, the balance within this relationship is ultimately guaranteed by the Holy Spirit

II - THE SUPREME PONTIFF AS THE SOLE SUBJECT OR PRINCIPAL SUBJECT OF THE SUPREME POWER OF THE CHURCH

The purely monarchical thesis asserts that the Roman Pontiff is the sole subject of supreme power in the universal Church; according to this thesis, the College of Bishops is not ordinarily the repository of supreme power, for it can exercise this power only by virtue of a participation by way of attribution or communication on the part of the Roman Pontiff. Thus, the Ecumenical Council exercises the authority proper to the Roman Pontiff. This thesis is supported by authors who, although different in their methodology, share the same apologetic concern, namely, to guarantee the fullness of the supreme power of jurisdiction of the Roman Pontiff in the face of an excessive evaluation of the collegial nature of the Episcopal Body and thus exclude the existence of a supreme collegial power of jurisdiction of divine right over the universal Church. It prefers purely and simply to interpret the doctrine of the Primacy of Jurisdiction elaborated at Vatican I in a juridical way so as to counteract the misguidedness of conciliarism, Gallicanism and episcopalism. In fact, as Y. Congar says in one of his works, *this thesis is historically linked to an ecclesiology dominated by the juridical consideration of powers*¹⁹⁰.

We shall give special attention to the position of Father Gagnebet, who wrote a long development on the question in an article¹⁹¹ of the review *Divinitas*, and we shall also consider the article of Dino Staffa¹⁹² which appeared in the same review during the period of the conciliar debates. Other

the last instance the unity of the Church in the face of the two powers, one of which cannot be adequately reduced to the other: in fact, it cannot be said that the Church is a form of absolute monarchy.

190 Y. CONGAR, *Synode Épiscopale, primauté et collégialité in Ministères et communion ecclésiastique*, Paris, 1971, p. 172.

191 M. R. GAGNEBET, *L'origine de la juridiction collégiale du Corps Episcopal*, in *Divinitas* 5 (1961), pp. 431-496.

192 D. STAFFA, *De collegiati episcopatus ratione*, in *Divinitas* 8 (1964), pp. 3-61. This article, published in April 1964, although not strictly speaking belonging to the period preceding the Second Vatican Council, nevertheless reflects the author's pre-conciliar position, which does not take into account the elements that will emerge in the constitution *Lumen Gentium*, published on 21 November 1964.

authors also support this position, but since their writings are relatively late in relation to the period we are concerned with, they will be cited only occasionally and will not be considered in a systematic way¹⁹³.

II - 1. Theological premise: The meaning of the divine institution of the Primacy of Peter

II - 1.1 *The question of the origin of the power of jurisdiction*

This thesis develops from a fundamental premise of a theological nature, which can be stated as follows according to D. Staffa:

"We are instructed by the Gospel that the fullness of the *potestas* was conferred by Christ first on Peter alone, and that to him alone were given the keys, that is, (...) the emblems of supreme authority not only over the lambs but also over the sheep. When Our Lord Jesus Christ communicated to the other Apostles the *potestas* which he had already given to Peter, he did not revoke his divine and eternal decree, but willed that what he had granted to Peter alone, who is the head, should be conferred on the others by derivation from him: what is *given to one alone cannot be granted to the others, except through him*"²⁶.

This premise is articulated in two propositions, one relating to doctrine of the divine institution of the primacy of the Roman Pontiff, the other relating to the immediate origin of the power of episcopal jurisdiction from the Pope

Father Gagnebet poses the problem concerning the origin of the jurisdiction of the bishops in the following way: *It is, then, to know whether the Episcopal Body holds this power over the whole Church immediately from God or receives it from the Pope, the only proper subject of supreme and universal power in the Church*¹⁹⁴?

For him there is no doubt that all episcopal jurisdiction derives from Peter. Thus:

"Christ has entrusted to Peter alone the fullness of universal jurisdiction. If others are associated with its exercise, it will be in virtue of the communication which he himself will make to them of his own power. The supreme authority will not belong to them in their own right, because they are subordinate leaders to whom it belongs in virtue of their own authority to procure the good of a particular Church. All together remain subjects of the Supreme Pastor, unable to possess, even as a body, the authority proper to him: the supreme jurisdiction over the universal

193 We are referring to U. LATTANZI, *De nexu agnoscendo inter episcopalem consecrationem et sacra Ecclesia munera*, in *Divinitas* 9 (1965), pp. 393-414; and also A. GÜTIÉRREZ, *Collegium Episcopale tamquam subjectum plena et suprema potestatis in universam Ecclesiam*, in *Divinitas* 9 (1965), pp. 421-446.

194 M. R. GAGNEUET, *op. cit.* p. 431.

Church. If this jurisdiction were given to them directly,

Peter would no longer be the sole holder of the fullness of power over the entire Church. The Supreme Head of the Church would no longer be Peter, but the Apostolic College*¹⁹⁵.

This author is distinguished by his affinity with the theologians we cited in Chapter II and who, following D. Palmieri, had rejected the thesis of a collegial jurisdiction over the universal Church, conferred directly by Jesus Christ on the bishop in virtue of his episcopal character. For Father Gagnebet, collegial power was, by grace and supernatural favour, exceptionally given directly by Christ to the Apostles, because of the necessities of their mission as founders of the nascent Church¹⁹⁶.

"The immediate communication to the Apostles of universal jurisdiction is therefore to be classed among their extraordinary privileges not transmissible to the Bishops taken as a body"¹⁹⁷.

"Just as Christ Jesus transmits to us through his ministers the grace of the sacraments, which was given to us by him in person, so he transmits to the bishops their jurisdiction through his Vicar: ..."For it is manifest," says St. Thomas¹⁹⁸, "that Christ made all the sacraments of the Church: for it is He who baptizes; it is He who remits sins; it is He, the true priest who offers Himself on the altar of the cross, and whose body is consecrated by His power every day on the altar: and yet, because he was not going to be bodily present to all the faithful, he chose ministers through whom he could dispense to the faithful all these sacraments, as we have said. For this same reason, since He was going to withdraw His bodily presence from His Church, He had to leave someone to take care of the Church in His place. This is why He said to Peter before the ascension, in *John 21:17: Feed my lambs, feed my sheep**, and before the passion in *Luke 22:32: When thou art converted, strengthen thy brethren**, and to Peter alone He made this promise in *Mat 16:19: I will give thee the keys of the kingdom of the two*, in order to show that through him the power of these keys was to be handed on to others, in order to preserve the unity of the Church."¹⁹⁹.

195 M. R. GAGNEBET, *op. cit.* p. 467.

196 Let us note that it was Cajetan who accredited this distinction between a universal jurisdiction given by Christ to the Apostles *de speciali gratia* or *via preventionis gratuita* and the successive rule which was to apply to the successors of the Apostles and to be the general, ordinary rule, according to which the jurisdiction of the bishops is a derivation of the primatial power of the Pope (Cf. CAJETAN, *De comparatione auctoritatis Papa et Concilii*, Pollet, Roma, 1936, Cap. III, n. 30-34). Staffa takes up the same argument in the above-mentioned article in the review *Divinitas* (p. 19).

197 M. R. GAGNEBET, *op. cit.* p. 469.

198 ST. THOMAS AQUINAS, *Contra gentiles*, lib. IV, cap. 76.

199 M. R. GAGNEBET, *op. cit.* p. 468.

Father Gagnebet could not be clearer. Relying on numerous authors whom he has taken care to quote, he affirms that the position (supported by Father Bolgeni) according to which each bishop would receive directly from God, by his aggregation to the Episcopal Body, universal jurisdiction, even though he can only exercise it collegially in dependence on the Pope, is devoid of all foundation. According to him, *aggregation to the Episcopal Body cannot be the occasion for the reception of such a jurisdiction: by its nature, this power requires to be derived from the Successor of Peter in order not to jeopardize the monarchical constitution of the Church*²⁰⁰. He adds: *The origin of collegial jurisdiction is no more in accord with the facts than with the primacy of the Successors of Peter and their sovereign power in the Church,*

It can also be seen that for Dino Staffa the problem of the relationship between Primate and Episcopate is based on this categorical affirmationthesis of the origin of episcopal jurisdiction immediately from the PopeIt is a necessary corollary of the definition of the Primate of jurisdiction of the Roman Pontiff

"According to the dogmatic constitution *Pastor æternus*, the entire and supreme *potestas* over the whole Church and over each of its parts is given to the Roman Pontiff alone; from this it follows that the SupremePontiff, in virtue of the fullness of his power, confers jurisdiction on others, in such a way as to avoid resorting to a collation of jurisdiction immediately and without reason, on the part of God, since God does nothing useless"²⁰¹

// -1.2. The definition of the College concept

The monarchical conception of the Primacy of jurisdiction over the universal Church necessarily has repercussions on the somewhat individualistic conception of the episcopal office, which, while it does not exclude the existence of a link between the bishops, avoids the words *College* or *collegiality*, which were hardly used by the papal magisterium in the period preceding the Second Vatican Council²⁰².

According to the categories of the time²⁰³, the word *College* could be understood in four different ways:

1. in a spiritual sense of communion, in virtue of which the bishops are united by the bond of faith, charity, the sacraments and spiritual solidarity.
2. in a purely collective sense, namely the *Episcopal Body* united to the

200 *Op. dt* p. 469.

201 D. STAÏTA, *op. de*, pp. 9-10.

202 We refer the reader to paragraph II of Chapter I, where we have pointed out that the word *college* occurs only once in the papal magisterium of this period.

203 Cf. A. GUTIÉRREZ, *Collegium Episcopale tamquam subiectum plena et suprema potestatis in universam Ecclesiam*, in *Divinitas* 9 (1965), p. 424, n. 3.

Pope in the ordinary government of the Church.

3. in a legal sense, in the strict sense, namely a group of equals whose leader is the *primus inter pares* especially when the office of presidency has been requested by the other members.

4. finally, in a broader juridical sense, namely, the Episcopal Body united to the Pope in a strictly collegial action, as is the case in an Ecumenical Council.

The word College in its third sense is the one that had most often attracted the attention of Roman theologians and had been deliberately rejected by the Preparatory Commission of the First Vatican Council because of its egalitarian ring in the juridical mentality of the time. It is understandable how the proponents of the monarchist thesis reserved about its use

Thus, for D. Staffa, *if, however, we want to use the word "college" exclusively, it is inappropriate to state that by this we designate a society whose members are not all equal*²⁰⁴. And for him this word *collegium* is less appropriate than the word *corpus*, or *ordo*, or *communitas* to speak of the episcopate united to the Pope²⁰⁵, hence the need to use it with caution.

Philosophical premise: The meaning of the ecclesiology of "societas"

The monarchical thesis also rests on a postulate of a philosophical character, namely that the Church, being a perfect society, possesses a unique authority which is like the form of that society

According to Dino Staffa, *since the "potestas", by which subjects are governed in order to achieve the social end, is public, jurisdiction and the conferral of jurisdiction belong to the society and its visible head*²⁰⁶. Every human society must be governed by a single supreme authority, which determines its direction and exercises its government in a necessarily unitary manner. Just as other human societies, and especially the state, can have only one supreme authority, so it is with the Church. The concept of society is applied to the Church, defined as a juridically perfect society in virtue of that absolutely *m^{con}* "tangible autonomy deriving from the particular nature of its proper end. The narrowly juridical conception of the Church, as reflected in the authors of the 19th century^e, who were very sensitive to the doctrine of

204 D. STAFFA, *op. cit.* p. 4.

205 Cf. D. STAFFA, *op. cit.* p. 4: "*Magis conveniens videretur usus vocis corpus', quamquam latina huius verbi significatio, etiam in fontibus romanis, saepe eadem est atque vocis collegium*".

206 *Op. cit.* pp. 8-9.

choJr BILLOT, *Tractatus De Ecclesia Christi* (Tome II), Apud JEdes Univer-evRoms, 1921, pp. 335-336: "*Ecclesiastica societas (...) convenit*

natural law, determines this *ecclesiology of "societas"*, in which we find the philosophical and juridical categories used to define other human societies.

This unity of principle of the supreme authority is also affirmed by Father Gagnebet:

◆ Now, in every society, to the supreme ruler alone (whether he be a monarch, a representative of the people, or <a college) belongs the supreme and universal power. His proper function is to procure the common good of this society, and to order towards it the activity of all its members. Therefore, the jurisdiction which is appropriate to him is supreme, that is to say, subordinate to no other, and universal because, specified by the universal good of this society, it extends to the activity of all its members, whether simple subjects or subordinates"²⁰⁷ .

II - 3 Distinction between particular and universal jurisdiction. Conditions for participation in Ecumenical Councils

For the authors we are speaking of, particular jurisdiction is the foundation of the universal jurisdiction enjoyed by the bishops assembled in councils.

According to D. Staffa the *potestas jurisdictionis* of the residential bishops is ordinary and not delegated; it is proper, that is, not vicarious, but it is also derived from the Supreme Pontiff²⁰⁸. The bishops in their various particular Churches exercise in the name of Christ the power of jurisdiction received from the Pope under whose authority they must exercise it. This jurisdiction over the particular Church is the reason for the participation of the bishops in the Ecumenical Council: *The residential bishops are to be summoned to the Ecumenical Council by virtue of the jurisdiction or right granted to each of them by the Supreme Pontiff, but by virtue of the obligation and divine right inherent in their office as residential bishops*[^]

According to Father Gagnebet:

"The titular bishops, deprived of all jurisdiction, do not enjoy a strict right to participate in the Council. For the episcopal character does not make them members of the Church *actu regens et docens* which assembles in Council (...). The episcopal character does not confer a power to govern the Church. It empowers the subject who receives it to become a leader and doctor in the Church: it confers on him a capacity of divine origin to feed the flock of Christ with the bread of doctrine and to lead it to God by laws and precepts (...). Character never confers any jurisdiction. It makes one capable of receiving and exercising it, but it does not confer it.... Thus the lack of jurisdiction explains the absence of a strict right in the titular bishops to be called to the Council. But the

207 M. R. GAGNEBET, *op. cit.* p. 465.

208 D. STAFFA, *op. cit.* pp. 43-44.

presence in them of the episcopal character establishes a suitability of divine origin to be called with the right of suffrage (²⁰⁹).

In these affirmations one recognizes the thought of the theologians who, following D. Palmieri, opposed the theory²¹⁰ of J. B. Bolgeni on the double jurisdiction.

II - 4 The meaning of episcopal collegiality; the theory of the single subject

The primacy of the Roman Pontiff is understood by these authors as the principle of a power that constitutes the Pope as the sole source of all the Church's jurisdiction and as the centre and moderator propeller of all its activity, placing him, as it were, at the top of the hierarchical pyramid as the sole depositary *in his own right* of the power of jurisdiction over the Church. Collegiality is then perceived as a *subordinate* reality which helps to explain the reality of the Ecumenical Councils

The fear of undermining the primacy of Peter leads our authors to deny the existence of a double subject of the supreme power of jurisdiction in the Church. For them, primacy by its very nature belongs to one, for the fullness of power admits of no limit, deficiency or addition, from which it follows that the ecclesiastical jurisdiction of the Supreme Pontiff cannot be diminished by any human authority, but only by divine authority, that is to say, by natural and positive divine right²¹¹.

For Dino Staffa, the College is a body whose jurisdiction derives from the head, and therefore does not *have* supreme power over the Church:

"The episcopal community enjoys no universal and supreme power *nisi cum Capite, sub Capite, and ex Capite suo...* - Consequently there are not in the Church two universal and supreme authorities: that is, one which would reside in the Roman Pontiff and the other in the College of Bishops, but there is one supreme authority, namely, that of the Roman Pontiff, who can exercise it in two different forms according to his discretion; That is, personally, or together with the College of Bishops in its universality, as happens in the course of the Ecumenical Councils, or through certain delegates of the same College, appointed directly by the Pontiff himself, or indirectly, according to modes subscribed by them

If, finally, it is asked: Is the subject of supreme authority in the Church unique or double? I humbly think that the answer must be: the principle and source of supreme authority in the Church resides only in its head; therefore, the subject of supreme power in the proper and

209 M. R. GAGNEBET, *op. cit.* p. 465.

210 We remind the reader that Father Bolgeni's position has already been explained in Chapter I (paragraph III- 3).

211 Cf. D. STAFFA, *op. cit.*, p. 5.

absolute sense is unique, it is the Roman Pontiff (...); and the community of bishops may be called the subject of the supreme power in a relative sense or by participation, depending on whether under the direction of the Roman Pontiff himself it is a participant in his supreme authority and cooperates with him in the government of the Church"²¹².

Father Gagnebet will speak of the existence of two subjects of the supreme power, one primordial and the other secondary: For him, *these two subjects do not have the same relationship to the supreme authority. To the Pope, this authority belongs in its own right (primo, per se, et secundum quod ipsum) in all its fullness and in independence of all other visible authority in the Church. The Episcopal Body, on the other hand, does not have it in itself: it is only the capacity or aptitude to receive communication of this power from the Pope, its proper subject, in order to exercise it jointly with him and in his dependence*²¹³. Since the two subjects of whom Father Gagnebet speaks are not in the same relationship, it is deduced that the latter does not possess this power in his own right, and consequently cannot be called, *eadem ratione*, the subject of the supreme power of jurisdiction over the universal Church²¹⁴.

It thus appears that the arguments developed from the direct communication of the power of jurisdiction to the bishops by the Pope lead the authors of the thesis we have called monarchical to recognize one and only one *proper subject* of supreme power, namely, the Supreme Pontiff. The Pope is the subject of supreme power by divine right. He exercises it in two ways, either collegially or personally. The College of Bishops, on the other hand, is a secondary subject of the supreme power, and exercises this power only with the consent of its head, in an accidental, transitory, and subordinate manner.

III - THE SUPREME PONTIFF AND THE COLLEGE OF BISHOPS, DOUBLE SUBJECT OF THE SUPREME POWER OF THE CHURCH

The thesis we call mixed asserts that the subjects of supreme power in the Church are two: the Roman Pontiff and the College of Bishops on the other. These two subjects are, however, inadequately distinct because the Roman Pontiff is the repository of supreme power, not only in his personal

212 D. STAFFA, *op. cit.* pp. 11-13.

213 M. R. GAGNEBET, *op. cit.* p. 488.

214 For example, Father Gagnebet repeatedly says that *the Council exercises the authority that belongs to the Pope*. According to him, in the Council, only the pontifical authority is to act in a certain sense. It is the *Pope* who, in the manner of the head, communicates to the Council his entire being as a Council and his doctrinal and disciplinary authority (cf. *op. cit.*, p. 474, p. 477).

capacity successor of Peter, but also in his collegial capacity as head of the College

Before or during the Second Vatican Council, many authors have studied collegiality, its scriptural and historical foundations, its theological development through the centuries, and among them the proponents of the mixed thesis are by far the most numerous. We have already mentioned in the course of this study the works of Father Torrell³ on the Episcopate, the articles of Father Hamer⁵⁴ on the authority of the Episcopal Body, and the work of Alberigo⁵⁵, on the development of the doctrine of the power of jurisdiction in theology. One could add many other interesting studies which mark out this course, like that of M. J. Le Guillou⁵ on collegiality and the work of Joseph Lécuyer, *Études sur la Collégialité épiscopale*⁷.

® -1. Incorporation into the Episcopal College

Episcopal consecration confers the fullness of the power of order and the essential and fundamental jurisdictional power in virtue of which the bishop can act collegially in relation to the universal Church. Episcopal consecration and apostolic succession, in short the reception of the sacrament of the episcopate, confers according to these authors a fundamental ability to govern the people⁵⁸.

rr J* P' TORRELL, *The Theology of the Episcopate at the First Vatican Council*, Coll. *Unam Sanctam* 38, Les Éditions du Cerf, Paris, 1961.

On ¹⁰episcopal collegiality, in *RSPT* 44 (1960), pp. 40-50;
 or ⁵episcopatum to the Pope, his authority in the Church, according to the documents of the first Vatican Council in *RSPT* 45 (1961), pp. 21-31.

AUJERIGO, *Lo Sviluppo della dottrina sui poteri nella Chiesa Uni*¹ 56
 M i7 ^{ns} ⁷²iali irati ^{XVI e XIX} "colo, Herder, Roma-Freiburg, 1964.

... ..GUHXOU, *The sacramental and collegial structures of communion*
 * a mission, in *L'Eglise en marche*, Cahiers de la Pierre-Qui-Vire, Desclée de Brouwer, Pans, 1964.

Lyon⁵ J964[^]CUyER^{sur} ¹ Collégialité épiscopale, Édition Le Puy-Mappus, pc
 J. LÉCUYER, *Orientations présentes de la théorie de l'épiscopat*, in *L'Épiscopat et ghse universelle*, Coll. *Unam Sanctam* 39, Éditions du Cerf, 1962, pp. 791-792:

- J. l'episcopal , all bishops acquire a certain spiri- power.

to all the faithful (...); by the episcopal consecration, moreover, the bishop receives

According to Fr. Le Guillou, collegiality remains:

"an aspect of the Church's sacramentality. It is based on the episcopal character given in the episcopal consecration, the sacrament of apostolic succession. This consecration is essentially a transmission of the supreme power given by Christ to the Twelve for their mission of universal salvation, thus including powers to govern, teach and

sanctify"²¹⁵ .

Let us not forget that Father Jerome Hamer endorses Father Bolgeni's position on the suitability of all bishops resident or titular, to sit at the Ecumenical Council, because of the collegial jurisdiction they possess in virtue of their episcopal ordination²¹⁶ .

III - 2 The College of Bishops as the subject of supreme power in the Church

That the College of Bishops is subject to the supreme power is for our authors a fact now taken for granted:

Father U. Betti, in his work *Constituzione dommatica "Pastor aternus" del Concilio Vaticano I*, takes Zinelli's assertions and recognizes that the supreme power of jurisdiction of the College of Bishops is exercised over the universal Church:

"If it is true, in fact, that the bishops, either in scattered form throughout the world, or gathered in Ecumenical Council,

if not jurisdiction, at least a fundamental ability to govern the people of God, what we can call with the ancient documents, a charism or a grace of leadership (...). To demonstrate that *titular bishops* have a certain pastoral power, Benedict XIV also invokes another text of the Roman Pontifical, which, he notes, is addressed to them as well as to the other *residential bishops*: "*Receive the Gospel and go and proclaim it to the people entrusted to you.*"

215 M. J. LE GUILLOU, *Les structures sacramentelles et collégiales de la communion et de la mission*, in *l'Église en marche*. Cahiers de la Pierre-Qui-Vire, Desclée Brouwer, Paris, 1964, p. 121. Bolgeni's theory, the same author tells us: "This right to govern the universal Church and this duty to provide for its needs, which belongs to the bishop as a member of the Episcopal Body, universal jurisdiction distinct from jurisdiction over the dioceses. It has a collective and solidary character: it is essentially collegial. It is linked to the gift of the episcopal character in the consecration. This theology was favourably received throughout the 19th century and the existence of this universal jurisdiction was one of the motives put forward to justify the appropriateness of the convocation of all the titular bishops at the Council of Vatican I".

216 J. HAMER, *Note on episcopal collegiality* in *RSPT* 44 (1960), pp. 40-50.

exercise the supreme power of jurisdiction, this happens only insofar as they are united to their head, the Pope, who retains over them all his full and immediate authority.... Moreover, the Supreme Pontiff can exercise supreme power over the Church, even in a personal form (*da solo*), - independently of the concurrence or consent of the episcopate"²¹⁷ .

Father Le Guillou makes an interesting distinction between primacy and jurisdiction:

Primacy designates the supreme universal jurisdiction as granted personally to the Successor of Peter and exercised, as such, by him; but the College of Bishops, in communion with the Successor of Peter, and under his authority, collegially possesses this same universal jurisdiction"²¹⁸ .

For Fr. Lecuyer, in the case of an Ecumenical Council, the Episcopal Body is indeed invested with the supreme power of jurisdiction over the universal Church:

♦ The Bishops, therefore, constitute, in this aspect also, a single body, the Episcopal Body, which succeeds the College of the Apostles, with, at its head, the Successor of Peter. This collegiality in pastoral government appears in its perfection when, gathered in Council, all together, under the presidency of the Supreme Pontiff, they constitute the subject of the supreme power of the Church"²¹⁹ .

III - 3 Unicity of the Supreme Power in the Church

The uniqueness of the supreme power is required by the very nature of the relationship between the Pope and the College of Bishops and precisely by the necessary inclusion of the Pope in the College. The difficulties that some may feel in the face of the statement of the First Vatican Council that attributes to the Supreme Pontiff not only the *potiores partes* but the *totam pleniitudinem supreme potestatis*, as if the Pope had a supreme power superior to that of the College, have no solid foundation. Indeed, the historical and doctrinal context in which the definition of the Primate of Jurisdiction was pronounced dispels all fears on this subject. We have seen in Chapter I how Archbishop Zinelli's interventions have clarified the objections raised by some of the Council Fathers on this subject. Father Torrell, whom we have already quoted, has devoted some pages to this theme in his work *The Theology of the PEPiscopate in the First VaticanTM Council*. The definition

²¹⁷ U. BfçTTi, *La Costituzione donativa "Pastor aternus" del Concilio Vaticano I*, Pontificio Ateneo Antonianum, Roma, 1961, pp. 609-610.

²¹⁸ M. J. LE GUILLOU, *op. cit.*, p. 123.

²¹⁹ J. LÉCUYER, *Orientations présentes de la théorie de l'épiscopat*, in *L'Épiscopat et l'Église universelle*, Coll. *Unam Sanctam* 39, Éditions du Cerf, 1962, p. 809.

intends to exclude only that the College of Bishops is the repository of supreme power in such a way that this supreme power belongs to the Pope in a principal, and not plenary, manner, as if independently of the other bishops he could not decide anything. To acknowledge that the Pope, considered personally, has the fullness of supreme power, does not authorize us to say that this supreme power of the Pope is ultimately superior to that of the whole College of Bishops. The latter, in fact, forms only one reality with him. If the College of Bishops did not have the same supreme power as that possessed by its Head, the *potestas* itself of the Supreme Pontiff would be diminished, for in the College there is always the Pope, with all his prerogatives received from Christ.

111 - 4. dual mode of exercising this supreme power

From the authors we have quoted above, we deduce that the Roman Pontiff, who is an integral part of the College of Bishops and constitutes its head, exercises the supreme power of jurisdiction in a twofold manner:

- or he acts by himself, that is, by an explicit operation of his own will, without the will of the other members of the episcopate being directly operative. This mode of exercising supreme power, as defined at the First Vatican Council, does not mean that the bishops do not have an advisory role, or that they may not have been at the root of the initiative which the Pope finally retains. But in the last resort the decision is personal and remains the fruit of the free decision of the Pope, who wants it to be his own and retains it as such.

- or he acts according to the collegial mode, in which case the whole College of Bishops is a party, in a positive and direct way, to the decision taken in common accord and ratified by the Supreme Pontiff. Such an act of jurisdiction is both an act of the Roman Pontiff and an act of the College of Bishops, which always includes its Head, and can never act without its Head, much less against its Head.

- 4. J. P. TORRELL, *La théologie de l'Épiscopat au premier conseil du Vatican*, Coll. *Unam Sanctam* 38, Les Éditions du Cerf, Paris, 1961, pp. 150-158.

112 - 5. The two subjects of supreme power in the Church

The twofold exercise of the supreme power of jurisdiction as we have just considered it, on the one hand by the Pope personally, on the other by the bishops united to the Pope, introduces the perspective of the two subjects of the *potestas suprema*.

After mentioning Father Kleutgen's relation to the *Cansritutio secundo*

"*De Ecclesia Christi*", G. Alberigo comments as follows:

The relation (Kleutgen) had taken pains to illustrate this assertion, maintaining that no one could question the fact that the bishops have a share in the government and magisterial office over the universal Church, and concluding that henceforth - after the definition of the Primate of Jurisdiction - it necessary to speak of **adouble subject** of this power, according to the best tradition of the defenders of the Papacy. This definition of the Primate did not deviate in any way from Tradition and was therefore entirely in harmony with the formulation then proposed by Kleutgen. Moreover, this most authoritative theologian was so convinced of the authenticity of the doctrine concerning the supreme power of the College of Bishops that he did not hesitate to define it as a dogma of faith (*fidei dogma certissimum*).

In conclusion, the most theologically qualified reporters of the First Vatican Council, Gasser, Zinelli and Kleutgen do not hesitate not only to admit but also to maintain the existence of a collegial power of the episcopate over the universal Church; a power which constitutes in their theological system the very point of reference for determining the nature and content of the Pope's personal prerogatives. The derivation of this power, they affirm that the traditional doctrine that this power is conferred immediately by God, without the intervention of the Pope can also continue to be perfectly accepted, without any prejudice to the definite truths concerning the primacy and infallibility⁶⁵.

For Father Jerome Hamer:

"The College of Apostles lives and subsists in the College of Bishops. This theory of the episcopate leads to a balanced ecclesiology which recognizes in the Church **two subjects of the**

ALBERIGO, *Lo Sviluppo della dottrina sui poteri nella Chiesa Universale, Coniuenti essenziali tra il XVI e XIX secolo*, Herder, Roma-Freiburg, 1964, pp. 443- **supreme power: the Sovereign Pontiff and the College of Bishops with the Pope at its head**²²⁰.

220 J. HAMER, *Note on episcopal collegiality in RSPT* 44 (1960), p. 49. The same author in the article, *The Episcopal Body united to the Pope, its authority in the Church, according to the documents of the first Vatican Council in RSPT* 45 (1961), pp. 30-31, develops the same idea: "All this seems to be well rendered and explained by the *theology of the double subject*. The *plena et suprema potestas* is exercised first of all by a personal act, the act of the Sovereign Pontiff, heir to the promises made to Peter alone. To this personal act corresponds a personal subject, the Roman Pontiff. This is the teaching of chapter III of *Pastor Aeternus* and the corresponding canon. The same *plena et suprema potestas* is also expressed in a collective act, in line with the promise made collectively to the College of Apostles headed by Peter. How can this collective act, which we have described above, be explained without recourse to a **collective subject**, constituted by the Episcopal Body united to the Pope (...)?

This distinction of two subjects of the supreme power is also defended by Father Le Guillou:

"The Pope alone can do all that the Pope can do with the College and, on the other hand, the College without the Pope can do nothing. The Pope and the College of Bishops are not two distinct powers, but one and the same power, all dependent on Christ the Head; it is in this identity of power that the unity of the episcopate consists and that the foundation of the whole episcopal structure is found"²²¹.

Far from opposing the doctrine of primacy, collegiality complements it, and is assumed by it. It does not destroy the doctrine of primacy; on the contrary, it brings it into sharper focus. Primacy and collegiality are complementary to each other for the service of the mission entrusted by Christ to his Apostles"²²².

To these concordant voices seems to be added also that of Joseph Lécuyer, who, however, apart from the case of the Ecumenical Councils hesitates to speak of a double subject inadequately distinct from the supreme power. For him, *outside of the General Council, it seems that said Pope alone, one can say that the whole Church is subject to him, and therefore one cannot speak of a universal jurisdiction of bishops. However, if there is a General Council, by that very fact all the faithful throughout the world are subject to its decisions, that is to say, to those of the whole Body of Bishops, in such a way that they are bound to obey the canonical decisions emanating from that body*⁹.

It is clear, therefore, that the position of those who recognize a double subject inadequately distinct from the power of jurisdiction¹⁰ is in tune with a whole theological current, which was clearly expressed on the occasion of the First Vatican Council by the interventions of Bishop Zinelli and the work of Kleutgen. The link between the sacramental character of the episcopate and collegial jurisdiction over the universal Church is decisive in the reasoning of these theologians.

For the reasons we have outlined throughout this note, the theology of the **inadequately distinct double subject** demands the full attention of the theologian. *Pastor aeternus* on the primacy of the Successor of Peter and that given by Scripture and Tradition on the episcopal function conceived in all its breadth, which the first Vatican Council proposed to define at the time it was interrupted. Zinelli and Fr. KJeuken would be the first to agree.

221 M. J. LE GUILLOU, *Les structures sacramentelles et collégiales de la communion et de la mission*, in *L'Église en marche*, Cahiers de la Pierre Qui Vire, Desclée Brouwer, Paris, 1964, p. 118.

222 *Op. cit.* p. 118.

In conclusion to this Chapter III, which looks at the period preceding the Second Vatican Council, we can say without hesitation that the notion of the collegial power of the bishops over the universal Church is now a fact recognized by all theologians, even if the content and the formulation of the underlying doctrine vary according to each one; this has led us to distinguish three different theses which characterize the respective positions of the authors of that time. In the integrally monarchical thesis, collegiality is seen as an exercise of primatial power, that is, as participation in and dependence on the power of the Roman Pontiff. The integrally collegial thesis, on the other hand, sees primacy as an exercise of collegial power, as an expression of and dependence on the power of the College of Bishops. The mixed thesis of the double subject of the power of jurisdiction has the advantage of harmonizing the relationship between the Primate and the Episcopate in such a way that in person of the Head of the College and of the Pastor of the universal Church is recapitulated the charism of the whole College and of the whole Church.

† , 69. J. LECUYER, *Orientations présentes de la théorie de P Épiscopat*, in *l'Épiscopat et l'Eglise universelle*, Coll. *Unam Sanctam* 39, Éditions du Cerf, 1962, p. 810.

70. Let us note, as we shall see later (Chapter IV, § IX - 2. 3.), that the Second Vatican Council did not settle the question of the number of subjects (a single subject or a double subject) of the supreme power, and wanted to leave the discussion open

Finally, it should be noted that the Preparatory Commission for the Second Vatican Council had prepared an outline (distributed to the Council Fathers on November 23, 1962), which reflected somewhat the state of mind before the Council, and in which it was clearly stated that the College of Bishops succeeds the College of Apostles and possesses supreme power over the universal Church²²³.

223 The preparatory scheme was expressed as follows: "Collegium Episcoporum quod Collegio Apostolorum in magisterio et regimine pastoralis succedit, immo in quo Collegium Apostolorum continuo perseverat, quodque missionem Iesu Christi eiusdemque doctrinam et leges continuo testatur, imo cum capite suo, Romano Pontifice et numquam sine hoc capite, unum subjectum plenae et supremae potestatis in universam Ecclesiam creditur. Potestas tamen huius Collegii, etsi ordinaria, utpote officio inhaerens, non nisi modo extraordinario et in devota subordinatione Iesu Christi Vicario in terris quando, quomodo et quousque eidem id in Domino videtur expedire, legitime exercetur. Quod vero ad constitutionem augusti huius Collegii attinet, omnes Episcopi residentiales in pace cum Sede Apostolica viventes suo iure eiusdem membra sunt, et nemo Episcoporum, sive residentialium sive aliorum, ad hoc Collegium pertinere potest, nisi dedita opera vel consensu tacito a Successore Petri Vicario et Capite Collegii, in idem assumptus sit" (1D, Series II, vol. I, Periodus Prima, Pars IV, in *Schenia Constitutionis Dogmaticae "De Ecclesia"*, p. 27, § 16)

This text, which is the result of a compromise between various tendencies, affirms that the College of Bishops succeeds the College of Apostles and possesses supreme power over the universal Church, but it presents serious difficulties (for example, it limits membership in

The discussions and work of this period can be seen as a more or less immediate preparation for the conciliar debates, which will lead to the promulgation of an official teaching on collegiality in a renewed ecclesiological context. This will be the subject of our next chapter.

the College to residential bishops, makes no reference to the episcopal character as the basis of collegiality, has a very juridical conception of the role of the College, from the perspective of power and prerogatives only); but above all it lacks internal coherence in its presentation of the exercise of supreme power by the College. We will return to this subject in more detail in the next chapter, in paragraph IX-2. 3.

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Chapter IV

The doctrine of Collegiality as it appears in the texts of the Second Vatican Council and the post-conciliar Magisterium

After examining, in the previous chapter, the theological development of the notion of collegiality and the opinions of the various authors in the period preceding the opening of the Second Vatican Council, we propose to study, in this chapter, the main lines and conclusions which emerge from the Council's own teaching on this theme

It is not our intention to consider in detail, systematically the whole of the conciliar works on this subject, since serious studies have already treated this question abundantly²²⁴. It

Continued from note 1:

²²⁴ We think it useful to refer the reader to the chronicles of the Council, to works on the general history of the Second Vatican Council or on the particular history of the elaboration of the Constitution *Lumen Gentium*, and to commentaries on the latter texts for this purpose that we make special mention:

R. AUBERT, *The Council: The Preparation; Organization and Functioning of the Assembly; The Development of the Council. I testi conciliari*, in M. GUASCO, E. GUERRIERO, E. TRANIELLO, *La Chiesa del Vaticano II*, Vol. 1, pp. 121-388 - G. ALBERIGO & A. MELLONI, *Storia del Concilio Vaticano II*, Il Mulino, Bologna-Leuven, 1995-1999, 4 volumes: Vol. I *Il cattolicesimo verso una nuova stagione. L'annuncio e la preparazione*; Vol. II *La formazione della coscienza conciliare. Il primo periodo e la prima intersessione, ottobre 1962-settembre 1963*; Vol. III *Il Concilio adulto. Il secondo periodo e la seconda intersessione, settembre 1963-settembre 1964*; Vol. IV *La Chiesa come Comunione. Il terzo periodo e la terza intersessione, settembre 1964-settembre 1965* - Y. CONGAR, *Le Concile au jour le jour*, Les Éditions du Cerf, Paris, 1963-1966, 4 volumes - Y. CONGAR, *Le Concile de Vatican II*, "Collection théologie historique", Beauchesne, 1984 - G. CAPRILE, *Il Concilio vaticano II*, Roma, 1965-1960, 5 vols. in 6 volumes: Vol. I *Annunzio et preparazione: Tomo I (1959-1960)*, Tomo II (1961- 1962); Vol. II *Il secondo periodo (1963-1964)*; Vol. IV *Il terzo periodo (1964-1965)*; Vol. V *Il quarto periodo (1965)* - J. GROOTAERS, *Actes et Acteurs à Vatican II*, Leuven University Press, Leuven, 1998 - J. GROOTAERS (presented by), *Primacy and Collegiality, Gérard Philips' dossier on the Nota Previa*,

University Press Ed. Peeters, Leuven, 1986 - R. LAURENTIN, *L'enjeu du Concile*, Éditions du Seuil, Paris, 1962-1966, 5 volumes: Tome I, *L'enjeu du Concile*, 1962; Tome II, *Bilan de la Première session*, 1963; Tome III, *L'enjeu du Concile, jan de la deuxième session*, 1964; Tome IV, *L'enjeu du Concile, Bilan de la troisième session*, 1965; Tome V, *L'enjeu du Concile, Bilan du Concile. Histories of the texts, commentaries with a chronicle of the fourth session*, 1966 - R. Mc AFFÉ BROWN, *Protestant Report on the Vatican Council*, New York, 1964 - R. ROUSSEAU, *Christianity. Chronicles*, Coll. *Unam Sanctam* 69, Les Éditions du Cerf, Paris, 1968, 2 vols. 1986 - X. RYNNE, *Letters from Vatican City*, Ed. Farrar, Straus & Company, New York, 1963-1966, 4 vols. - L. WALTERMANN, *Konzil als Botschaft in der deutschen Rundfunkübertragung über das zweite Vatikanum. Eine Dokumentation*, 1966 - A. WEGENER, *Etica II, Le Centurion*, Paris, 1963-1966, 4 vols. D. M. WILGENT, *The Rhine flows into the Tiber, the Unknown Council*, Hawthorn Books, New York, 1967.

From the point of view of theological analysis and commentary of Chapter III *Lumen Gentium*, we can mention, among many others, the following works or articles: G. ALBERIGO, *L'episcopato al Vaticano II a proposito della Nota esplicativa di Monsignor Philips*, in *Christianesimo nella Storia* 8 (1987), pp. 147-163 - *Il significato della Nota Esplicativa Previa in La Chiesa dopo il*

concilio, Ed. Giuffrè, Roma, 1972, voi. 2, pp. 418-434 - M. ALONSO, *Constitución jerárquica de la Iglesia y particularmente del episcopado*, in AA. W., *Comentarios a la Constitución sobre la Iglesia*, Madrid, 1966 - U. BETTI, *La dottrina sull'episcopato nel Vaticano II*, Città Nuova, Roma, 1968 - U. BETTI, *Theological Qualification of the Conciliarism in the Church of Vatican II*, Tome DI, Coll. *Unam Sanctam* 51b, Editions du Cerf, Paris, 1966, pp. 211-218 - U. BETTI, *Relations between the Pope and the other members of the College of Bishops*, in *The Church of Vatican II*, Volume III, Coll. *Unam Sanctam* 51c, Editions du Cerf, Paris, 1966 - R. BLASQUEZ, *La Iglesia del Concilio Vaticano II*, Sígueme, Salamanca, 1988 - G. C. F. RIANI, *La Costituzione Dogmatica sulla Chiesa*, Milano, 1966 - G. DEJAIFVE, *le Pape, les évêques, la collégialité; ana- rnrn* *Lumen Gentium* in *le Concile vous parle*, 3. Bruxelles fideliter,

DEJAIFVE *la collégialité dans un tournant décisif de l'ecclésiologie à can II*, Beauchesne, Paris, 1978, pp. 24-42 - J. A. DOMÍNGUEZ, *Las interpretaciones de la Constitución de "Lumen Gentium"*, pp. 39-87 - *La Constitución dogmática sulla Chiesa*, Ed.

LP Ç¹ Jorino-Leuman, 1966, pp. 11-73 - A. FLANNERY, *Vatican II, the Conciliar Revolution*, Scepter Books, Dublin, 1966 - B. GHERARDINI, *La Chiesa, Missionaria e Evangelizzatrice*, Edizione, Biblioteca Scienze Religiose, Roma, 1994, pp. 169-289 - G. R. HIERARCHICA COMMUNIO, Università Gregoriana Editrice, Roma, 1980 - *Il Concilio Vaticano II*, LESTER, *Genesis of n. 22 of Lumen Gentium in Excerpta e dissertationibus*, *TT¹¹ (1984) Eiusa* > Pamplona, 1984 - H. HOLSTEIN, *Hierarchie und Synodalität*, * Turnen *Gentium*", Beauchesne, Paris, 1965 -

mit As/il *Église selon le deuxième concile du Vatican*, in *Revue Theologique*, *Za* HLIL p¹ a⁵, b¹ *The Ecclesiology of Vatican II*, *Francia* *ih, Ch h-1974* - K. MAC ÑAMARA, *leticati II: The Constitution of the Second Vatican Council*, Franciscan Herald Press, Chicago, 1963 - *Il Concilio Vaticano II*, *La Costituzione dogmatica sulla Chiesa*, Edizione Elle Di Ci,

sobre LAPAC K? ^25-751 - C. MORCILLO, *Comentarios a la Constitución de Lumen Gentium*, Ed. *El jopado en la Constitución*

Lumen Gentium" in *Salmanticensis* 12 (1965), pp. 451-507 - W. ONCLIN, we need only refer to the most important moments and the most interesting discussions of the Council, which had a direct and determining influence on the elaboration of the texts and which allow a better understanding of the doctrine of collegiality

Our study will be based essentially on the conciliar documents, especially n. 22 of *Lumen Gentium* which constitutes the major and fundamental text on collegiality. This paragraph of the Constitution is of particular importance in the context of our work. It will serve as a basis for the second part, which is devoted to an in-depth study of the Synod of Bishops in its relationship to collegiality.

We will not hesitate to refer at times to other documents of the later Magisterium which make it possible to clarify certain notions. For example, the document *Apostolos suos* of John Paul II, published as a *Motu Proprio*, will be specially mentioned because of its close relationship with the theme of collegiality. We will thus be led to speak of collegiality *in the strict and broad sense, of full and partial collegiality, of affective and effective collegiality*, all of which will be useful later in studying the theological significance of the Synod of Bishops.

power of the bishop and the principle of collegiality in *La Chiesa dopo il Concilio*, Giuffrè, Milano, 1972, pp. 135-162 - P. PARENTE, *Saggio di un ecclesiologia alla luce del Vaticano II*, Città Nuova, Roma, 1968 - S. E. PAULIS, *La Collegialità dei vescovi nel terzo Capitolo della Costituzione < Lumen Gentium >*, Tesi della Pontificia. Facoltà di Teologia del Sacro Cuore, Cagliari, 1981 - G. PHILIPS, *The Church and its mystery*. Tome I & Tome II, Desclée, Paris, 1967 - C. POZO, *La teologia del Episcopado en el Capítulo 3º de la Constitución "De Ecclesia"*, in *Estudios Eclesiásticos* 40 (1965), pp. 139-161 - G. POZZO, *Costituzione dogmatica sulla Chiesa, Lumen Gentium*, ed. Piemme, Casale Monferrato, 1988 - K. RAHNER, *Kommentar zum III Kapitel (Lumen Gentium)*, Artikel 18-27 in *Das zweite Vatikanische Konzil (LThK)*, Teil II, Freiburg-Basel-Wien, 1966, pp. 210-246 - J. RATZINGER, *La collégialité épiscopale. Theological Development*, in *The Church of Vatican II*, Volume III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, Paris, 1966 - J. RATZINGER, *Il Nuovo Popolo di Dio*, Brescia, 1971, pp. 162-245 - H. SCHAUF, *Das LEITUNGSAMT der Bischöfe zur Textgeschichte des Konstitution *Lumen Gentium* des II Vatikanischen Konzils*, Schönningh Verlag, München-Paderborn, 1975 - C. TROISFONTAINES, *À propos de quelques interventions de Paul VI, in Paolo VI e i problemi ecclesiologici al Concilio*, Colloquio internazionale di studio (settembre 1986), Pubblicazione dell'Istituto Paolo VI, Brescia, 1989, pp. 115-129 - L. VISCHER, *L'accueil réservé aux débats sur la collégialité*, in G. ALBERIGO and J. P. JOSSUA, *La réception de Vatican II*, Coll. *Cogitano Fidei* 131, Les Éditions du Cerf, Paris, 1985.

I - THE CONCILIAR TEXTS RELATING TO THE COLLEGIAL POWER OF THE BISHOPS

The Council first of all addresses the theme of collegiality in a privileged and systematic way in the constitution *Lumen Gentium*, and then in a more or less direct way in the decrees *Christus Dominus* on the pastoral office of the bishops and *Ad Gentes* on the missionary activity of the Church.

The Constitution *Lumen Gemium*, a text of reference par excellence on

collegiality, deserves a brief presentation and a summary of the most important historical moments in its development. In this way, the context of the entire constitution will provide an appreciable insight into the place and importance occupied by the theme of collegiality.

~ L Presentation and structure of the constitution *Lumen Gentium* and its chapter III

After a first descriptive chapter on the mystery of the Church, in which the relationship between the Church and the Trinity is first considered

In a second chapter, the Constitution deals with a sketch of the progressive development of the Church, i.e., the journey of the People of God (LG 9), the richness of its common sacrament (LG 10-12), its Catholic specificity with its universal mission (LG 13-17). The Fathers of the Council have promoted an ecclesiology of communion², in which

F \ ' T ^CERBI > una ecclesiologia giuridica a una ecclesiologia di comunione, aco ta eologia Interregionale dell'Italia Settentrionale, Centro Editoriale Deho- "7°°° ° P ' BORI, KOIUWNIA, l'idea della comunione nelCeclesiologia

1975* R^F Brescia, 1972; S. DIANICH, *La Chiesa, mistero di comunione*, Bologna, - ■ "Chiesa Mia Trinità, saggio sul mistero della Chiesa, comunione e sione, San Paolo, Milano, 1995; J. HAMER, *Ten Theses on the Church as a Com- mm m Nova "Velerà* 59 (1984), pp. 161-180; J. RATZINGER, *Principia ofCatholic*. Int0 English by s"ter M"n^F _Mc

Carthy), Ignatius Press, San P. PP- 252-254; C. SCANZILLO, *La Chiesa, sacramento di comunione, Gomentouologtco "Lumen Gentium-*, Ed. Dehoniane, Napoli, 1970; G. THILS, 499 I MfanJ'Eeltte. m *Nouvelle Revue Théologique* 5 (1969), pp. 475-

Dn > *élises, TEcclésiologie de la comunione*, Les Éditions Ecededir a " > r "AILLAR " Æ ministero episcopale nella * *Communio J0 /0tniui5tero&cura* di P Goyret), Libreria Editrice Vati- ' Roma, 2000, pp. 75-84. Let us also mention the book by J. HAMER, *L'Église est une com- the universal Church appears as a people that draws its unity from the Father and the Son and the Holy Spirit*²²⁵. The Church of Christ is presented as a communion, that is to say, an organic and living whole, resulting from all the elements of grace by which the People of God is constituted and lives. The common and peaceful possession of these spiritual goods in the visible unity of the Body of the Church establishes the faithful in a real and dynamic communion²²⁶.

is logical that after these first two chapters, Chapter III²²⁷ presents the

225 See LG 4.

226 LG 9: "(Populus Dei) a Christo in communionem vitæ, caritatis, et veritatis constituais".

227 It should be noted that in the scheme which preceded the text of *Lumen Gentium*, the arrangement of Chapters II and III was reversed. By reversing the order, the Council wished to emphasize first the importance of what is common to the People of God in Chapter II, and then to deal with what is more specific in Chapter III, namely the hierarchy, which fulfils a

hierarchical structure of the Church at the service of this communion and dedicates a special place to the episcopate and its collegial structure, the sign and foundation of the constitutive unity of the Church and of its communion. The sacrament of the episcopate configures the bishops to Christ and introduces them into the College, uniting them by special bonds in that communion of life with God, one and triune, to which all the faithful are invited. A fourth and fifth chapter will be devoted to questions pertaining to the laity and to the universal vocation to holiness. Finally, chapters VII and VIII will deal with the Church in Heaven and the Blessed Virgin Mary in the mystery of Christ and the Church

Chapter III which interests us begins with a preliminary (n. 18), which introduces the great themes of the hierarchy and manifests the intentions of the Council. The following numbers follow in a logical movement, starting from the vocation of the Apostles called by Christ (n. 19), describing their apostolic mission and finally the institution of a permanent hierarchy in the Church

The Apostles are succeeded by the bishops (n. 20), who ensure the continuity of the mission entrusted by Christ to his Apostles. Whoever listens to the bishops listens to Christ himself, concludes LG 20, referring to Le 10:16.

No. 21a emphasizes how bishops are connected not only to the historical Christ, through apostolic succession, but also to Christ in glory, who is present and active in their person and in their functions. This double connection with Christ gives them a special dignity, which is itself conferred by a sacrament. The sacramentality of the episcopate, the decisive affirmation of the second paragraph of LG 21b, constitutes a novelty which engages the authority of the Magisterium through the Sacrament of Orders that newly elected members are received into the Episcopal Body²²⁸.

In turn, sacramentality introduces the following paragraphs on the College of Bishops (n. 22) and on the nature of the relationship of the Bishops among themselves and with the Head of the College (n. 23). Then the conciliar text goes on to deal with the ministry proper to the bishops and the three *munera* constitutive of their office.

1-2. Some **historical background on the constitution** *Lumen Gentium*

The Constitution *Lumen Gentium* was promulgated on 21 1964 by Pope Paul VI in the name of the Council, during the closing assembly of the third session. The importance of dogmatics and the step forward in the theology of the Church, and especially of the Episcopate, were underlined by

function of diakonia, a service of communion in favour of this same People of God
228 See LG 21b.

the Pope himself on the day of promulgation²²⁹. The theme of the sacramentality of the episcopate and collegiality are two of the tonal points treated by this Constitution.

Chapter III of the Constitution *Lumen Gentium* was the object of passionate discussions and even, at times, confrontations within the conciliar assembly between the members of the *Majority*, in favour of a definition on the theme of Collegiality, and the members of *Minority*, hostile to a valorization of the College of Bishops for fear of an attack on the prerogatives and Primacy of the Supreme Pontiff.

It is worthwhile to recall briefly some of the salient facts which marked the genesis of Chapter III and especially of n. 22, dedicated to the College of Bishops and its Head.

Even before the third session of the Council, it was clear that there was a significant minority of Fathers in the Council who refused to affirm that episcopal consecration confers not only the power of order, but also the power of jurisdiction, which includes the power to teach and govern. discussion after the second session, the *Minority* generally retreated to a middle position: episcopal ordination gives the ability to receive jurisdiction from the Pope; the Pope inserts a new member into the College who is also the holder of supreme power. Thus the Pope can constitute the Episcopal College, but it does not exist without this convocation²³⁰. The *Majority*, on the other hand, insists that episcopal consecration undoubtedly gives the power of jurisdiction, and constitutes the College, but the exercise of this power must be done in communion with the Head of the College and its members, and observe the rules or norms approved by the Pope. Hence it may be said that the enactment jurisdiction is granted by the authority of the Roman Pontiff To the *Minority* who object that power without act is useless and does not exist, the *Majority* theologians reply that the College still exists, but it only exercises

amnlent¹ R-S We are satisfied that this doctrine has been treated with a **conciudnl**^U Yf¹ detud^{es} " of discussions, and with great clarity in the **Vatican r-S**¹ . A duty to do so fairej to complete the first council of the e time to do so, given the evolution that the blêmr c n . ogliques of today, the diffusion of the Church in the world, the proson **artivi**⁸ ov⁸ arnement of the Church meets in the daily experience of dp h pastora^e ' the expectation of many bishops concerning medire68 con5erne **: What was uncertain is clarified; what was

serene/ True and in parde controversial, reaches today a formulation an **hour rU**^{00US} can say Que divine Providence has prepared for us certainmpnrntementripended, today resplendent, tomorrow impulses, of improvements for the life of **21 nnvpmhî** Occasion of the promulgation of the Constitution on

230 It is interesting in this regard to refer to Cardinal Browne's *adnotatio in textum noviter propositum Schematis *De Ecclesia*", Parte I, Cap II, par. 16, dated February 12, 1964, which is appended in: J. GROOTAERS, *Primacy and Collegiality, The Gerard Philips Dossier on the Nota Prævia*, Leuven University Press, 1986, pp. 85-86. This document typically reflects the position of the *Minority*.

its power fully at the Council or when the Pope invites it to collective action. To some degree it still exercises it in ordinary pastoral government, for if the Pope were to dispense with the order of bishops, he would be acting against the very structure of the Church.

In the period preceding the opening of the third session, the text of Chapter III, concerning the hierarchical constitution of the Church, had been carefully revised and enriched with many new elements. The Cardinals of the *Minority* had intervened with the Supreme Pontiff to express reservations about the amended text²³¹. In the meantime, Paul VI had published the encyclical *Ecclesiam suam* dated August 6, 1964, in which he declared his deliberate intention to abstain from pronouncing on certain points of doctrine concerning the Church. These points were then the subject of discussion in the Council and he wanted to leave the Fathers of the Council freedom of study and speech²³². D reserved the right to make his feelings known at the time and in the way he deemed appropriate, according to the duties of his office²³³. Thus, according to the Pope's will, the scheme on the Church was to follow its normal course at the conciliar level.

The beginning of the conciliar session was occupied on September 21, 1964, by the reading of three introductory reports. The first report²³⁴ was that of Bishop Franic, spokesman for the *Minority*, and a sort of devil's advocate. His objections concerned the sacramental mentality of the episcopate, the attribution of the *munus docendi et regendi* in the episcopal consecration itself. With regard to collegiality, he strongly contested that the College of Bishops is a permanent subject of the *potestas suprema ecclesiastica*.

231 Cardinal Ruffini and Cardinal Micara had separately sent the Holy Father a critical analysis of the text, in which they expressed their grave concerns. Reference may be made to the respective documents presented by Grooters Q. GROOTERS, *op. cit.*, pp. 147-148).

232 However, Pope Paul VI intervened significantly with the Doctrinal Commission on May 19, 1964, by sending a list of thirteen amendments in the form of proposals, to be examined by the said Commission. This intervention reflects the Pope's state of anxiety, torn between the euphoria of the Majority and the concern inherent in his office to safeguard at all costs the total monarchical power as it had existed before him and as he had the duty preserve after him for his successors (cf. J. GROOTERS, *Primacy and Collegiality, Gerard Philips' dossier on the Nota Prævia*, Leuven University Press, 1986, p. 32). These amendments were examined in the Commission, and in a report to the Pope on June 7, 1964, Bishop Philips gave an account of the slight modifications made to the text.

233 Cf. AAS 56 (1964), p. 622: "Hisce in Enciclicis Litteris consulto abstinemus a quavis sententia Nostra proferenda circa doctrinæ capita ad Ecclesiam spectantia, quæ iudicio Concilii Œcumenici, cui præsidimus, jam proposita sunt. In grandi disceptandique libertate fluatur; quemadmodum autem Nostrum postulat apostolicum Magistri ac Pastoris officium, quo uti Ecclesie Caput fungimur, opportuno tempore ac modo Nostram aperiamus mentem, ac tunc nihil magis optabimus, quam ut sententia Nostra cum Patrum Concilii iudicio plane concordet

234 This relatio of Bishop Franic, entitled *Relatio qua difficultates movat*, (cf. AS III, vol. II, pp. 193 & seq.) had been distributed beforehand in the conciliar assembly. It had been written at the request of the Council of the Presidency, but of course it did not engage the responsibility of the Theological Commission.

The second report²³⁵ by Cardinal König illustrated the text presented-paragraphs 18 to 21. The third report²³⁶ by Archbishop Parente was a presentation of the proposed text (paragraphs 22 to 27). These two reports were of particular interest because they were of an official nature and involved the responsibility of the Doctrinal Commission. Bishop Parente's report shed some light on the question of collegiality proposed in the conciliar text and answered the objections of Bishop Franic's report.

From 22 to 28 September, a series of 39 partial votes took place on the approval or rejection of 39 proposals corresponding to the same number of subdivisions of Chapter III (there was no possibility of voting *placet juxta modum* for these 39 votes). The results of these votes gave 2/3 majority required for approval to the first 32 proposals concerning paragraphs 18 to 27 relating to the theme of the episcopate. But it is significant to note the relatively high number of *no* votes of the proposals²³⁷. The relatively high number of *non-placets* compared to *placets*, concerning propositions VI (328 *non-placets*, 1917 *placets*), X (322 *non-placets*, 1918 *placets*), XIII (292 *non-placets*, 1927 *placets*), XVII (204 *non-placets*, 2004 *placets*). These proposals, all directly related to the theme of collegiality or the collation of the *munus docendi et regendi* at the time of episcopal consecration, manifested a persistent uneasiness among the Fathers of the *Minority* whom Bishop Parente's Relation had not succeeded in convincing.

On September 30, two global votes were taken corresponding to the two parts into which Chapter III had been artificially divided. The first part, which interests us, comprised numbers 18 to 23, relating to the introduction and the doctrine on the episcopate; the second part, numbers 24 to 27. The part on the episcopate was approved with 1624 *placets*, against 42 *non-placets* and 572 *placets juxta modum*. Thus, after this global vote, the text remains entirely within the competence of the Commission, which can take into account the amendments or *modi* proposed to improve it, leaving the substance of the chapter intact.

A huge task awaited the Theological Commission during the month of October to evaluate, discuss and classify no less than 4100 *modi* concerning the first part of Chapter III, and to modify the text if necessary. On October 31, the Commission completed its laborious work. More than 30 amendments were accepted and integrated into the text of Chapter III. Ten of these modifications concern collegiality. Bishop Philips, assistant secretary of the Theological Commission, was the linchpin of all this work. Following a direct intervention by the Holy Father, he was asked to preface *Vex-pensio modorum*

235 See AS III, vol. II, pp. 203 & seq.

236 See AS III, vol. II, pp. 207 & seq.

237 See III, vol. II, p. 254, p. 265, p. 353, p. 374.

(or report justifying the *modifications*²³⁸) with an introductory notewhich would briefly gather together some of the responses to the main*modifications* and reformulate some of the delicate points in terms acceptable to the *Minority*²³⁹ . The Pope's intervention is not limited to the preparation of an introductory note, but also asks for the introduction of some modifications in the text of the Constitution²⁴⁰ .

On 12 November, the Theological Commission discussed and accepted what would be called the *Nota prcevia*, taking into account the wishes of the Holy Father. After the booklet containing the *modi*, together with the *Nota prcevia*, had been distributed to the Fathers, on 16 November, the General Secretary of the Council, Bishop Felici, on behalf of the higher authority, read out to the Fathers a notification which included three communications. The first assures them that the procedure had been regular. The second recalled the doctrinal authority (*qualifier*) *theologica* of the Constitution. The third was introduced by the following remark: *From the higher authority is communicated to the Fathers a preliminary explanatory note concerning the "modi" regarding chapter 3 of the outline on the Church. The doctrine set forth in this chapter 3 is to be explained and understood according to the spirit and wording of this note.* On November 17, Chapter III was put to a vote in the conciliar assembly. The result was 46 *no votes* for 2039 votes.

238 The *modi* themselves were classified and collected in a booklet called *Modi a Patribus conciliaribus propositi a Commissione doctrinali examinati, sub secreto*, Typis Polyglottis Vaticanis, 1964, and distributed to the Fathers. They are found in *AS m*, vol. *Vin*, pp. 52-171.

239 Significant in this regard is the will of Pope Paul VI notified on November 10, 1964, through Cardinal Cicognani to Cardinal Ottaviani, President of the Doctrinal Commission, from which we limit ourselves to quoting an extract.

◆ D Vicario di Cristo, dovendo poi fare Suo e promulgare il nuovo testo, ha espresso, pertanto, la volontà che esso sia preceduto da una Nota esplicativa della Commissione dottrinale sul significato e sul valore delle emendazioni, apportate al testo... In this way the Commission wishes to use the opportunity to formulate an appropriate response to the difficulties raised in this regard, because this would reassure the spirit of many of the Council members and would make it possible to have greater and more convinced support in the Council.fact, the Commission, which has good reasons for maintaining its own thinking, must also have good reasons for dealing with the difficulties

È altresì, volontà dell'augusto Pontefice che alcuni punti dello Schema siano precisati, come indicati negli uniti fogli; e in particolare, che sia espressa la dipendenzacostitutiva dell'autorità collegiale dei Vescovi dal consenso del Romano Pontefice"(cf. J. GROOTÆRS, *Primacy and Collegiality*, Gerard Philips' dossier on the *Nota Prcevia*, Leuven University Press, 1986, p. 109).

240 In the book, J. GROOTÆRS, *Primacy and Collegiality*, Gerard Philips' Dossier on the *Nota Prcevia*, Leuven University Press, 1986, J. Grootaers highlights, on the basis of hitherto unpublished documents, the importance of Bishop G. Philips' contribution to the drafting of the *Nota prcevia*. It also reveals the important role played by others, such as Archbishop Colombo and Fr Bertrams, in the drafting of the *Nota prcevia*, and Paul VI's determination to produce a text that would prevent any tendentious interpretation of the conciliar document.

As Archbishop Philips says, the Holy Father has achieved his goal of rallying virtually unanimous support for the project²⁴¹.

On November 19, the final vote of the Schéma *De Ecclesia* results in only 10 *non-placets* for 2134 *placets*²⁴².

Finally, on Saturday, November 21, a last vote took place before the approval and solemn promulgation by the Supreme Pontiff²⁴³.

Although the *Nota explicativa prævía* was never the object of the conciliar deliberations, but was added by will of the higher authority in connection with *Yexpensio modorum*, it remains a key and qualified piece for an adequate understanding of the doctrine elaborated in chapter III of *Lumen Gentium*²⁴⁴. The particular importance of this note, which we shall have occasion to discuss again, is underlined by the insistence with which Bishop Felici, the General Secretary of the Council, emphasizes it, and especially by the explicit mention of it by the Pope at the solemn moment of the promulgation of the conciliar text, on 21 November:

And therefore, taking into account the explanations given both for the interpretation to be given to the terms in use and for the theological qualification which this Council intends to attribute to the doctrine treated, We do not hesitate, with God's help, to promulgate the present Constitution *De Ecclesial*. Finally, it remains to be said that this note was inserted in the Osservatore Romano of 25 November 1964 with the newly approved text of the Constitution, and subsequently published in the Official Act of the Council²⁵. According to Bishop Philips²⁶, *the whole of Chapter III of the Constitution must be seen in the light of this note, which in no way diminishes*

241 See J. GROOTÆRS, *op. cit.* p. 83. Bishop Philips adds: "Some members of the *Minority* claim to have won. some theologians would still try to interpret the text voted for in a restrictive sense, unfavourable to the episcopal collegiality, especially by relying on the *Nota prævía*".

242 See AS III, vol. III, p. 407.

243 In the final solemn vote on the *De Ecclesia*, the results gave 2151 *placets* against only 5 *non-placets* (cf. AS III, vol. III, p. 782).

244 U. BETTI (*La dottrina sull'episcopato nel faticano II*, Città Nuova, Roma, 1968, p. 299) points out: "Il capitolo III votato e promulgato non era seguito né dalla dichiarazione sulla qualificazione teologica, che si riferisce all'intera Costituzione, né dalla Nota esplicativa prævía che lo interessa direttamente.

"Tanto l'una che l'altra furono tuttavia stampate, come appendice alla *Lumen Gentium*, il 4 dicembre 1964 nel fascicolo destinato ai Padri, con la premessa "Ex Actis SS. Oecumenici Concilii Vaticani II". Esse appariranno poi anche nelle edizioni ufficiali dei documenti conciliari".

J. RATZINGER (*Episcopal collegiality. Développement théologique, in L'Église de faticano II*, Tome III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, 1966, pp. 781-782) also points out: "Nevertheless, it should not be forgotten that by the repeated distribution of the written text, by its publication in the Osservatore Romano and by the mention of it in the Pope's closing address, the Note has taken on a character of solemnity and weight for the interpretation of the official document, beyond the usual measure of commission texts".

the scope of the text, with which it is in complete agreement, despite some mistrust on the part of some.

According to U. Betti, *the Nota prœvia, as far as its content is concerned, must not be considered in any way as an attenuation of the conciliar doctrine, secretly intended by the Doctrinal Commission. In fact, it is no more and no less than a means of making known the exact meaning that the Commission itself wanted to attribute to the text*

This note addresses four key points that we want to make:

The first point clarifies the meaning of the term *college*, which is not to be taken in a strictly legal sense, but evokes the meaning of a stable group.

The second point concerns episcopal consecration, which confers participation in sacred offices. This ontological participation in the *munera* becomes effective only through the determination

24/MS 56 (1964), p. 1009.

ⁿ⁵ §^{nc} T^{MS} *sanctum te cumenicum Concilium Vaticanum secundum, Constitutio dogma*-U^{Ca}
%^T y^{Pis} Partis Vaticanis 1964, pp. 71-74.

T r G^t *La Constitution Lumen Gentium au Concile leticati II*, in J. ROOTÆRS, *Primauté et Collégialité, Le dossier de Gérard Philips sur la Nota Pœvia*, U^{'An} University Press, 1986, p. 192. Bishop Parente, the official reporter of the passage of *Lumen Gentium* which concerns us, was to write on January 21, 1965 in the newspaper *Avvenire d'Italia*: "La votazione dei Padri ebbe per oggetto non la Nota (peraltro non necessaria), ma il testo della Costituzione... The Nota remains a document, compiled by the same Commission that wrote the text and approved by the Holy Father as such".

. Q^{er} 27' BETTI, *dottrina sull'episcopato nel Vaticano li*, Città Nuova, Roma, canonical, which regulates the exercise of this office received at episcopal ordination.

The third point deals with the relationship between collegiality and primacy The College of Bishops also has full and supreme authority over the universal Church. The College does not exist without its Head, who always retains the fullness of power. And it is for the Roman Pontiff to regulate, promote or approve the exercise of collegial primacy

In the fourth point, the distinction between the continuous existence of the College and the discontinuous exercise (at intervals) of its power, always with the consent of its Head is underlined

Finally, in the final remark, the *Nota prœvia* recalls the distinction between the two sacramental and juridical aspects of the episcopal office.

Finally, it should be noted that Paul VI, in his address given at the conclusion of the third conciliar session, rejoiced to see the doctrine of the prerogatives of the Supreme Pontiff in full harmony with the formulation of the doctrine on the episcopate and on collegial power:

"It was very important that such a recognition of the Pope's prerogatives should be explicitly expressed at the time when the question of episcopal authority in the Church was to be defined, in such a way that this authority should appear to be not in opposition to, but in

full accord with, the power of the Vicar of Christ, Head of the College of Bishops, in accordance with the constitutional law of the Church²⁴⁵.

1-3. The theological qualification of the doctrine promulgated in *Lumen Gentium*

On November 16, 1964, the Secretary General of the Council, Bishop Felici, on behalf of the higher authority, read before the assembly of the Council Fathers three communications, one of which dealt directly with the degree of authority to be given to the texts of the Constitution²⁴⁶.

As U. Betti²⁴⁷, the declaration on the theological qualification of the new conciliar text is a peculiarity of the Vatican Council II. This Council, in accordance with the wish of John XXIII²⁴⁸, did not claim to define new dogmas, nor to impose new doctrines or to condemn any heresy, unlike the Ecumenical Councils that had preceded it. Throughout deliberations on the outline of the Church, some of the Council Fathers and theologians raised the question of the theological qualification of the texts to come. As Joseph Ratzinger puts it:

"These texts constitute a novelty in the history of the Councils in that they do not include the canons and anathemas which hitherto served as an interpretative norm in the question of what was actually defined with binding character. The unusual length of the texts and the pastoral character of the Council, which is often emphasized, add to the difficulty of interpreting the document by determining its dogmatic value"²⁴⁹.

A statement on the doctrinal value of the text, which being prepared for the conciliar assembly, was therefore necessary²⁵⁰. The statement of the Doctrinal

28. *ÆS* 56 (1964), pp. 1010-1011.

246 Some Fathers tended to consider the doctrine developed on the College of Bishops as a pastoral directive without dogmatic scope (cf. G. PHILIPS, *L'Église et son mystère*, Tome I, Desclée, Paris, 1967, p. 65).

247 U. BETTI, *op. cit.*, p. 318.

248 JOHN XXIII, *Inaugural Address of the Council*, October 11, 1962, in *Catholic Document* 1387 (1962), col. 1383: "Today the Bride of Christ prefers to have recourse to the remedy of mercy rather than to brandish the weapons of severity. She considers that, rather than condemning, she responds better to the needs of our time by making greater use of the riches of her doctrine".

249 J. RATZINGER, *Episcopal collegiality. Theological Development*, in *Église de Vatican II*, Tome III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, 1966, p. 787. Bishop G. Philips also tells us: "None of the documents published by Vatican II contains a new 'definition of faith'. Many of the ideas presented undoubtedly and strictly belong to the domain of the Catholic faith, according to the oldest symbols and the conciliar and papal definitions of the past; but on the level of certainty, nothing is added" (cf. G. PHILIPS, *L'Église et son mystère*. Tome I, Desclée, Paris, 1967 p. 268).

250 We quote the notification read in the conciliar aula and then published with the

Commission on the theological qualification of the Constitution has the advantage of recalling that, if the doctrine treated is not a doctrine defined as such, it is nevertheless *a doctrine of the Supreme Magisterium of the Church and that each and every one of the faithful must receive it and adhere to it according to the very spirit of the Council, which emerges either from the subject matter in question or from the way in which it is expressed, in accordance with the norms of the theological interpretation*.³

According to J. Ratzinger, it is quite obvious that in the statement of doctrine set forth in the Constitution *Lumen Gentium*, one does not encounter dogma, not even in the statement of the sacramentality of the episcopate. According to him, *the whole (doctrine) is the expression of the Church's magisterium...An obligation to adhere to it follows to a considerable extent, for the subject is in the dogmatic domain and the statement the seal of the magisterium sure of its authority. The text goes far beyond the ordinary statements of the papal magisterium, including encyclicals, in the nature of the theological obligation it entails*²⁵¹.

For Father Umberto Betti²⁵², since the constitution *Lumen Gentium* is qualified as dogmatic, and since it claims to complete the doctrine of Vatican I, as it explicitly declares in chapter III, n. 18, it follows that the doctrine on the Church emanating from Vatican II can have neither less authenticity nor certainty than that on the Supreme Pontiff formulated by Vatican I. However, U. Betti admits a nuance in the sense that the doctrine of Vatican II, unlike that of Vatican I *not amount to a definition in the technical sense of the word*;

Constitution *Lumen Gentium*'.

"Quæsitum est quænam esse debeat *qualificatio theologica* doctrinae, quæ in Schemate *De Ecclesia* exponitur et suffragationi subicitur.

Commissio Doctrinalis quæsito responsonem dedit in expendendis *Modis* spectantibus ad caput tertium Schematis *De Ecclesia*, hisce verbis :

^MUt de se patet, textus Concilii semper secundum regulas generales, ab omnibus cognitatis, interpretandus est".

Qua occasione Commissio Doctrinalis remittit ad suam *Declarationem* 6 mardi 1964, cuius textum hic transcribimus:

"Ratione habita moris conciliaris ac præsentis Concilii finis pastoralis, hæc S. Synodus ea tantum de rebus fidei vel morum ab Ecclesia tenenda definit, quæ ut talia aperte ipsa declaraverit.

"Cetera autem, quæ S. Synodus proponit, utpote Supremæ Ecclesiæ Magisterii doctrinam, omnes ac singuli christifideles excipere et amplecti debent juxta ipsius S. Synodi mentem, quæ sive ex subiecta materia, sive ex dicendi ratione innotescit, secundum normas theologicæ interpretationis".

251 J. RATZINGER, *Episcopal Collegiality. Theological Development*, in *The Church of Vatican ZZ*, Tome III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, 1966, p. 789. The author adds: <As the indication of the revealed character of this doctrine is lacking, this is not to be seen as a dogmatic qualification, but as the expression of a common doctrinal conviction of the Council by which it is not asserted that the doctrine expounded is part of the treasure of the apostolic faith nor even that it is presented as necessarily requiring adherence ■>.

252 U. BIRN, *Theological Qualification of the Constitution*, in *The Church of Vatican II*, Volume III, Coll. *Unam Sanctam* 51c, Éditions du Cerf, Paris, 1966, pp. 216-217.

therefore, its denial does not ipso facto entail the deprivation of ecclesiastical communion, which is attached to the profession of a heresy. But according to him, even if its infallibility, and consequently its irreflexibility, lacks an explicit declaration, one should not think that it does not exist³¹.

The theologian J. M. Alonso²⁵³ holds a more nuanced position in this regard.

For him, there is a real and certain possibility of a theological reconsideration, within the limits of the prudence, of the doctrine expressed, both on the level of sacramentality and episcopacy and especially on that of episcopal collegiality. Finally, it emerges that the doctrine presented on the subject of episcopal collegiality^{ec n} is not taught with the guarantee of inalienability, but has the authority of the ordinary supreme magisterium²⁵⁴.

As *Lumen Gentium* will make clear in n. 25, in the absence of the characterization, the Church can prescribe different degrees of adherence. The assent required by the conciliar doctrine on collegiality is not an assent of divine and Catholic faith but a religious assent, that is to say, an *adhesion of the will and of the spirit founded on religious grounds*. It is worth quoting what the Code of Canon Law (canon 752) states with regard to the reception of such a doctrine:

"It is not really an assent of faith, but nevertheless a religious submission of the intellect and will which must be accorded to a doctrine which the Supreme Pontiff or the College of Bishops enunciates in matters of faith or morals, even if they do not intend to proclaim it by a decisive act; the faithful will therefore take care to avoid what is not in accord with this doctrine"²⁵⁵.

J ALONSO, *Constitución jerárquica de la Iglesia y particularmente del episcopado* 349 F.-C. *Anterior a la Constitución sobre la Iglesia*, Madrid, 1966, p. - ♦ Existe la real y cierta posibilidad de una reconsideración teológica, dentro de la posibilidad de una reconsideración teológica, dentro de la

doctrina expuesta tanto sobre la sacramentalidad (como, sobre todo, sobre la así dicha "colegialidad episcopal")

It is interesting to quote the words of Pope Paul VI at the time of the "au- lifirod" 1966:

There are those who ask themselves what authority, what qua-
 hi "Opque the Council wanted to attribute to its teachings, because we know maicr² give solemn definitions committing the infallibility of the "esiastic. The answer is well known if one remembers the declaration of iaWemar⁵ 1964 - given the pastoral character of the Council, it has lite^P f- extraordinary form of the dogmas endowed with the note of infallibility Fr^{ou} d^{nné} to its teachings the authority of the supreme magisterium ordiiordinary **and manifestly authentic** must be

anandr ô i, emeni ei sincerely by all the faithful, according to the spirit of the Council 12 iamntM-
 buts of the various documents" ¿PAUL VI, *General Audience*,

J KW U DocuTMntation *Catholique* 1446 [1966], p. 419).

of the balanced words of Bishop Philips qualifying the doctrine
 the Fathers were content to give guidelines for the

clarity of the "ui ^ndre only disciplinary measures, it is to want to deny the exercised nar turn
 l o^{no}u \$ ^"vons bien et en face du magistère authentique, (G PHU IPC Body of Bishops,
 including, of course, the Supreme Pastor".

255 CIC (1983), can. 752: "Non quidem fidei assensus, religiosum tamen intellectus et

Philippe Delhaye²⁵⁶, in his article *Vatican II, autorité des textes conciliaires*, published in the *Dictionnaire de Théologie Catholique*, reminds us that since the hierarchy does not want to bring its charism of infallibility into play, there can be no question of unconditional intellectual assent for the faithful; but there is a nuance between what is of faith and what is only indirectly linked to faith. In the case of collegiality, it is not a question of receiving doctrine with respectful silence, which would be insufficient, but of trying, under the influence of grace, to understand it with the help of the light of reason and to adhere to it with the help of the will²⁵⁷.

1-4. The other conciliar texts on to the collegial power of the bishops

The discussion on collegiality during the Second Vatican Council cannot be concluded without mentioning the Council document *Christus Dominus* on the pastoral office of the bishops, published on 28 October 1965.

This text has been largely influenced by the Constitution *Lumen Gentium*, which is referenced twelve times. The doctrine on the exercise of collegial power by bishops is described in detail, especially paragraph 4, which takes up passages from *Lumen Gentium* in their entirety. Paragraph 5, dedicated to the Synod of Bishops, refers to Paul VI's *Motu Proprio Apostolica Sollicitudo* of 15 September 1965²⁵⁸.

We will have the opportunity to return to these texts in greater detail in the course of our work.

We must also point out the special place given in paragraph 6 to the common responsibility of the bishops with regard to the universal Church, an affirmation already present in the encyclical *Fidei Donum* of Pius XII of 21

voluntatis obsequium præstandum est doctrina, quam sive Summus Pontifex sive Collegium Episcoporum de fide vel de moribus enuntiant, cum magisterium authenticum exercent, etsi definitivo actu eandem proclamare non intendant; christifideles ergo devitare curent quae cum eadem non congruant.

256 P. DELHAYE, *Vatican II, autorité des textes conciliaires*, in *DTC*, tome XVI/2, *Tables Générales*, col. 4346-4347.

257 Cf. G. PHILIPS, *La constitution <Lumen Gentium> au Concile Vatican II*, in J. GROOTAERS, *Primauté et Collégialité. Le dossier de Gérard Philips sur la Nota Praevia*, Leuven University Press, 1986, pp. 196-197: "Even if a theologian who is very well versed in the matter, in a theoretical case, retains some doubts, he is at least bound to a respectful silence, and he will quickly understand that the Council's doctrine rests on solid foundations. To spread doubt would endanger the community. If some people wanted, at the beginning, to diminish the scope of Chapter III of the Constitution, they did so wrongly. Unanimity in the final vote allows theological progress only by reflection in the direction that has been clearly indicated."

258 The document *Christus Dominus* says explicitly about the Synod of Bishops (*CD 5*): - "(Synodus Episcoporum) utpote totius catholici Episcopatus partes agens, simul significat omnes Episcopos in hierarchica communione sollicitudinis universae Ecclesiae participes esse."

April 1957. Pastoral solicitude comes close to the theme of collegiality, even if it does not enter into the case of collegial action²⁵⁹ as defined in *Lumen Gentium* n. 22. We should also mention the development of the episcopal conferences, which are particular places where the bishops of the same nation can exercise their offices jointly and thus concretely manifest collegial union in a common pastoral action.

The conciliar document *Ad Gentes* also mentions the responsibility and role of the episcopate as a whole with regard to missionary activity²⁶⁰.

n - THE MEANING OF THE WORD COLLEGE

The text of *Lumen Gentium* uses the word *college* on the one hand in connection with the group of Apostles, and on the other hand in connection with the Episcopal Body.

II - 1. The meaning to be given to the word *college* used with regard to the group of the twelve Apostles

No. 19 of *Lumen Gentium* affirms that Christ chose twelve disciples and made them his Apostles, *giving them the form of a college, that is to say, a stable group, and putting Peter, chosen from among them, at their head*⁴¹. This statement contains in itself one of the essential points of departure for the development of the conciliar doctrine on Collegiality: the Church, from the beginning, rested on this group of *Twelve* who formed a college²⁶¹.

The gospels themselves present the election of the Twelve as a rather solemn event. The Lord had spent the night in prayer (Lev. 6:12) and when the day came he called to himself those whom he had chosen *to be his companions and to send them out to preach the Kingdom of God*²⁶². They were to remain in his company throughout his public life, in order to be direct witnesses of his words and deeds, and especially of his Resurrection²⁶³. Jesus

259 Without anticipating the future, since we will come back in detail to this ^{ASD ASD ASD} Paragraph IX - 2, let us content ourselves with saying for the moment that the co-equal act is an exercise common to the whole College (Pope and bishops) of supreme power over the universal Church.

in ^{the decree} *in Gentes* (AG 6), it is recalled that the mission of the order of bishops, headed by the bishop, who is the only person to have the order of bishops, headed by the bishop, who is the only person to have Successor of Peter, with the collaboration of the whole Church. In AG 29 it is said: ♦ Cum eum cura Evangelium ubique terrarum annuntiandi in primis ad corpus Episcoporum perueniat..."

261 On this subject, it is useful to read the article by S. LYONNET, *La Collégialité épiscopale et ses fondements scripturaires*, in *L'Église de Vatican II*, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, Paris, 1966, pp. 829-846.

262 Cf. LG 19.

263 St. Peter in the primitive community, before proceeding to the election of a

sends his Apostles first to the cities of Galilee²⁶⁴, and then to all the peoples of the earth, *that they may make disciples of all peoples, sanctify them and govern them*²⁶⁵. The mission entrusted to them by the Lord makes them capable of forgiving sins; and just as Jesus, *the Word of God made flesh, the Anointed One of the Father, the Envoy of the Father* (Missus a Pâtre) had been sent to reveal the unfathomable mysteries of God's goodness and of the indivisible Trinity, so the Apostles are consecrated and sent by Christ to carry on his mission: *As the Father has sent me, so I send you*²⁶⁶. This mission is even more explicit day of the Ascension: *All authority has been given to me in heaven and on earth. Go therefore and teach all nations and baptize them in the name of the Father, the Son and the Holy Spirit. Teach them to keep all my commandments*²⁶⁶.

One of the Twelve, the Apostle Peter, is placed at the head of this group²⁶⁷, but in such a way that he continues to belong to the College. The collegial character of the apostolic group is confirmed by the way in which its members act. The testimony of the Acts of the Apostles shows that Peter often exercises his authority in union with the other Apostles. For the election of Matthias, he takes the initiative²⁶⁸, but the assembly itself proposes the two candidates, Joseph, called Barsabas, and Matthias²⁶⁹ and draws lots²⁷⁰. On the day of Pentecost, Peter speaks, but the text specifies that *zZ stands with the eleven*²⁷¹; he speaks in their name: *we are witnesses to this* and after the speech, it is *Peter and the other Apostles* that the crowd addresses itself by asking²⁷²: *Brothers, what must we do?* Again and again the Acts account mentions the Apostles as a group that teaches, performs miracles, bears witness to the Resurrection of Christ, receives the proceeds of the sale of those who part with their possessions, is thrown into prison, appears before the Sanhedrin, is beaten with rods, rejoices in having been judged worthy of suffering insult for the Name, and continues to proclaim the good news of Christ Jesus²⁷³. It is also *the Apostles* who, in Jerusalem, welcome Bamabas and Paul²⁷⁴. The important decisions are taken together, like the institution of the seven

replacement for Judas, insists on the necessity of this condition: "Oportet ergo ex his viris, qui nobiscum sunt congregati in omni tempore, quo intravit et exivit inter nos Dominus Jesus, incipiens a baptismo Joannis usque in diem qua assumptus est a nobis, testem resurrectionis ejus nobiscum fieri unum ex istis" (Act. 1,21-22)

264 Cf. Mt. 10:1-42.

265 Cf. LG 19. The conciliar text refers to well-known passages of Sacred Scripture: Mt 28:16-20; Mk 16:15; Le 24:45-48; Jn 20:21-23.

266 Mt 28:18-20.

267 Jn 21:15-17.

268 Cf. Acts. 1, 15.

269 Cf. ACTS. 1,24.

270 Cf. Acts. 1,26.

271 Cf. Acts. 2, 14.

272 Cf. Acts. 2, 37.

273 Cf. Acts. 2, 42-43; 4, 33, 35; 5, 18-21, 26-27, 40-42.

274 Cf. Acts 9:27.

deacons: the Twelve call the assembly of the disciples, explain the problem to be solved, lay hands on the seven chosen ones²⁷⁵. In common they feel responsible for evangelization, and this feeling of their common responsibility is so deep that we can say of Peter himself, their leader, that he was *sent* by the Apostles: *When the Apostles heard that Samaria had received the word of God, sent Peter and John Jerusalem*²⁷⁶. The episode of the Council of Jerusalem, which the Apostles participate with the elders, also manifests to a certain extent the character and collegial bond of the group of Apostles²⁷⁷. On several occasions the epistles of St. Paul mention the role played by the group of Twelve in resolving difficulties or administering the Church, without in any way undermining the supreme authority of Peter²⁷⁸.

Let us recall the difficulties that the word *college* encountered during the discussions in the conciliar aula. As we have already said in Chapter I, this word had seemed somewhat equivocal to the Fathers of Vatican I who had preferred to avoid it because of the egalitarian connotation that the term evoked. The difficulties were to be found again at Vatican II, especially among the supporters of the *Minority*, who in turn did everything possible to avoid the use of this word²⁷⁹.

The *Nota pravia*⁶⁶ specifies that the word *college* used for the group of Twelve is not to be taken in the juridical sense and that it is on purpose that the mention *stable group* has been added afterwards to avoid any ambiguity²⁸⁰.

275 Cf. Acts 6:1-6.

276 Cf. Acts 8:14.

277 Cf. Acts. 15, 6-29.

278 Cf. Gai 1, 17-19; ICor. 15, 7; Eph. 2, 20; 3, 5.

279 As Bishop Philips notes, "The term College, as applied to the Apostles, has caused some reluctance on the part of many Fathers and theologians. Had they read the Office of St. Matthias, February 24, so absent-mindedly? *You have, Lord, you have associated the blessed Matthias with the College of your Apostles...* In any case, in order to remove any kind of scruples, the Theological Commission has inserted a precision in the text: a college, that is to say, a permanent group... There is nothing fishy about it: no one would think of a team of peers delegating one of their number to a presidency with no real scope other than to make him a *primus inter pares*. The case of Peter is quite different: Jesus himself places him at the head of the Twelve. The rather paradoxical spectacle of certain members of the Council casting doubt on the Apostolic College betrays their secret apprehension of seeing the Episcopal College overshadowing the authority of the *Pope*" (G. PHILIPS, *L'Église et son mystère*, Tome I, Desclée, Paris, 1967, p. 232).

280 The reality of the Apostolic College will be fully explained in the *Motu proprio Apostolos suos* of May 21, 1998, which highlights the awareness of the Twelve as an undivided body, with Peter as its head (*Apostolos suos* 1): "The Apostles are not chosen and sent by Jesus independently of one another, but rather form the group of the Twelve, as is emphasized in the Gospels by the expression one of the Twelve, which is used repeatedly (cf. Mt 26:14; Mk 14:10; 20:43; Lc 22:3, 47; Jn 6:72; 20:24)... With the coming of the Holy Spirit on the day of Pentecost, the reality of the Apostolic Collegemanifests itself full of new vitality which comes from the Paraclete. To examine this question, the Apostles and the elders met, consulted and deliberated, guided by the authority of Peter (...)."

Finally, let us recall that the Biblical Commission officially responded on May 13, 1964, to a request expressed by Paul VI: *By the Lord's institution, St. Peter and the other Apostles constituted a single Apostolic College*TM.

H - 2 The meaning of the word *college* used to designate the Episcopal Body united to its Head

As for the meaning of the word *college* attributed to the Episcopal Body, we find the previous problematic linked to the juridical connotation that this word had in medieval and post-medieval society.

The constitution *Lumen Gentium* does not hesitate to call the Episcopal Body, composed of the Pope and the bishops in communion with him, the *College*:

"Just as St. Peter and the other Apostles constitute, by the institution of the Lord, a single Apostolic College, so the Roman Pontiff, successor of Peter, and the bishops, successors of the Apostles, form among themselves a whole (...). All this signifies the **collegial** character and nature of the Episcopal Order. But the **College** or Episcopal Body has no authority unless it is understood as united to the Roman Pontiff (...). The Order of Bishops which succeeds the Apostolic College in the magisterium and pastoral government (...). By its multiple composition, this College expresses, by its gathering under one head, the unity of the flock of Christ" (LG 22) "As members of the Episcopal College and legitimate successors of the Apostles" (LG 23).

In order to go beyond the juridical categories into which some authors used to confine the word *college*, and which in this case could not succeed in adequately describing the reality of the mystery of the Church, the conciliar text alternates the use of this word with that of *Order* or *Body*, in order to recall the interchangeable character of these vocables applied to the episcopate as a whole²⁸¹ and to prevent any misunderstanding to which an error in the interpretation of the word *college* might have given rise.

The same is true of the decree *Christus Dominus*, which specifies that the bishops *exercise their office, with regard to the universal Church of God, all*

281 Thus J. Ratzinger says: "the reciprocity of terms makes it clear that none of the terms available to us in secular juridical language can express in a perfectly accurate way the reality proper to the intrinsic character of the Church, for there are indeed analogies in the temporal domain, but no adequately parallel expressions" Q.RATZINGER, *Episcopal Collegiality. Theological Development*, in *The Church of Vatican II*, Volume III, Coll. *Unant Sanctam* 51c, Les Éditions du Cerf, 1966, pp. 765-766).

united in one college or body (CD 3).

ni - THE BISHOPS, SUCCESSORS OF THE APOSTLES

The Council affirms with the whole of Tradition the perenniality of the apostolic ministry: *The divine mission entrusted by Christ to the apostles is destined to last until the end of time (cf. Mt 28:20), since the Gospel which they are to transmit is for the Church the principle of all her life, for the whole duration of time*¹². Since the Church possesses the words of eternal life (Mt 16:18), and has received the assurance that the gates of Hell will never prevail against her, it is necessary that her life-giving principle, the Gospel, remain intact in her bosom. This transmission of the Gospel message requires an uninterrupted succession of persons who, according to a divine disposition, receive the ministry of the Apostles and continue their mission.

The conciliar text makes explicit the type of succession that ensures the continuity and life of the Church: *"For this reason the Apostles took care to institute successors in this hierarchically ordered society (...) Thus, according to the testimony of St. Irenaeus, Apostolic Tradition is manifested and preserved throughout the world by those whom the Apostles made bishops, and by their successors up to the present day"*¹³.

The Acts of the Apostles and the Epistles of St. Paul attest to the choice of collaborators who were to assist the Apostles and then replace them in their pastoral ministry, that is, to watch over the whole of the

Bishop Philips points out, with numerous references, that the word college has been used extensively in the history of the Church to describe the reality of the Episcopal Body (G. PHILIPS, *L'Église et son mystère*. Tome I, Desclée, Paris, 1967, pp. 284- 286). He quotes, among others, S. Cyprian, Optate of Milaeus, Pope Celestine writing to the Patriarch of Constantinople or to the Fathers of the Council of Ephesus, Pope S. Leo the Great, Pope Felix II... Father Joseph Lécuyer has collected an impressive series of texts relating to the use of this word in the High Middle Ages (cf. J. LECUYER, *Études sur la Collégialité épiscopale*, Le Puy-Mappus, Lyon 1964).

72. LG 20.

73. LG 20.

flock in which they have been instituted by the Holy Spirit to feed the Church of God²⁸².

The first epistle of St. Clement to the Corinthians, as it has come down

282 - *Attendite vobis et universo gregi in quo vos Spiritus Sanctus posuit episcopos, regere Ecclesiam Dei"* (Acts 20:28). The pastoral epistles of St. Paul provide numerous references to the care of the flock by auxiliaries or by ordained ministers through the laying on of hands Cf. 2 Tim. 4:6; 1 Tim. 5:22; 2 Tim. 2, 2; Tit. 1, 5.

to us, bears witness to this transmission of ministry by express order of the Apostles²⁸³.

Early Tradition attests that this law of apostolic succession was verified in the bishops. Already Tertullian, in his *De Pnescriptione hareticorum*, challenges the heretics to manifest the apostolic origin of their churches²⁸⁴ and claims for the Catholic Church alone the legitimate succession juridically founded on a temporal priority, which has its origin in the Apostles themselves. St. Irenaeus, in *Adversus Hæreses*, maintains that the succession of bishops is founded on Apostolic Tradition and that holy doctrine is none other than that professed by the bishops, uninterrupted successors of the Apostles and consequently guarantors of the deposit received²⁸⁵.

Finally, the Constitution *Lumen Gentiuni* authoritatively states: *The Holy Council teaches that the bishops, by virtue of divine institution, succeed the Apostles, as pastors of the Church, so that whoever listens to them, listens to Christ, whoever rejects them, rejects Christ and him who sent Christ*TM. That the bishops succeed the Apostles is a doctrine already defined at the Council of Trent and taken up again at Vatican I²⁸⁶. It is therefore a point long since beyond discussion, even if it could be questioned whether the Episcopal College as a whole succeeded the Apostolic College. It is true that the person of Peter, the head and first of the Apostles, is perpetuated as the visible foundation of the Church in the person of the Pope, head of the Body of Bishops, and that the Apostolic College is perpetuated in the College of Bishops. But as the *Nota explicativa pravi* indicates, *the parallelism between Peter and the other Apostles on the one hand, and the Supreme Pontiff and the bishops on the other, does not imply the transmission of the extraordinary power of the Apostles to their successors*[^] It is well understood that the special privileges enjoyed by the Apostles, according to the common opinion of Western theologians, are not transmissible. Infallibility, personal impeccability, unlimited jurisdiction extended to the whole world, the gift of miracles, if they were apostolic prerogatives, were not privileges intended to be transmitted to their successors

283 Cf. S. Clem. Rom., (quoted in note by the Constitution *Lumen Gentium*, LG 20, note 13) *Ad Cor.* 44, 4: Funk, p. 156.

284 Cf. Tertullian, *De Pnescriptione Hæreticorum*, cap. 32, (PL 2, 52): "Let the heretics therefore begin to produce the genealogy of their churches, let them unroll the lists of their bishops to prove that by an uninterrupted succession from the beginning, their first bishop has as his predecessor and founder one of the Apostles or apostolic men"

285 Cf. S. Irenaeus, (quoted in note by the Constitution *Lumen Gentium*, LG 20, note 10) *Ad. Hæreses* III, 2, 2 (PG 7 847); IV, 26, 2 (PG 7 1053); IV, 33, 8 (PG 7 1077).

286 These two Councils both affirm with precision: *episcopi qui in locum Apostolorum successerunt*. Cf. *Council of Trent*, session XXIII, *de Sacramento Ordinis*, cap. 4, (DS 1768); cf. also *Council of Vatican I*, Constitution *Pastor æternus*, cap. 3, (DS 3061).

IV - THE SACRAMENTALITY OF THE EPISCOPATE

Let us note first of all that Christ is present in the Church and in the faithful through his Spirit, as Tradition relates; he is also especially present in the sacrifice of the Mass, truly and substantially present under the Eucharistic species, present in the sacraments and in his Word proclaimed in the liturgy of the Church, and finally present in the person of his ministers²⁸⁷ and especially of his principal ministers, the bishops

It is true that his maximum presence is realized in the Eucharist, where he is truly, really and substantially present; but his mode of presence in the person of his ministers is not diminished. According to *Lumen Gentium* n. 21: *Thus, in the person of the bishops assisted by the priests, it is the Lord Jesus Christ, the Supreme Pontiff, who is present in the midst of the believers. Seated at the right hand of the Father, he does not fail the body of Pontiffs.* Bishops do nothing in their own name, but it is Christ who acts in them when they proclaim the

Word of God, administer the sacraments, or guide the Christian people.

This active presence of Christ in the bishops requires an ontological link between Christ and the bishops themselves. Otherwise, they would represent Christ in a purely external way. It is therefore required that they be the sacrament of Christ, that is, that they possess and exercise the office of teacher, priest and pastor in virtue of an ontological interior transformation which effectively assimilates them to the Person of Christ. It is the sacrament of episcopal consecration which ensures this assimilation. This is why *the Holy Council teaches that the fullness of the sacrament of Orders is conferred by the episcopal consecration, which the liturgical custom of the Church and the voice of the Holy Fathers designate as the supreme priesthood, the total reality of the sacred ministry*²⁸⁸.

The teaching of *Lumen Gentium* decisively settles the controversy about the sacramentality of the episcopate. The theology of high scholasticism, especially with Peter Lombard (this idea is found in the Supplement to the *Summa Theologica*²⁸⁹), opposed the sacramentality of the episcopate, basing

287 Cf. *SC* 7: "Ad tantum vero opus perficiendum, Christus Ecclesiae suae semper adest, praesertim in actionibus liturgicis. Praesens adest in Missae Sacrificio cum in ministri persona, "idem nunc offerens sacerdotum ministerio, qui seipsum tunc in cruce obtulit", tum maxime sub speciebus eucharisticis. Praesens adest virtute sua in Sacramentis, ita ut cum aliquis baptizat, Christus ipse baptizat Praesens adest in verbo suo, siquidem ipse loquitur dum Sacra Scriptura in Ecclesia leguntur. Praesens adest denique dum supplicat et psallit Ecclesia, ipse qui promittit: "Ubi sunt duo vel tres congregati in nomine meo, ibi sum in medio eorum" (Mt 18:20).

288 *LG* 21.

289 Cf. S. Th., *Sup.* Q. 40, Art. 5. The Supplement is a redaction of Brother Reginald of

itself on the argument that the sacrament of *Order* relates to the *Corpus verum* of Christ, to the ministry of the altar, and that consequently, from this point of view, the episcopal consecration does not confer new powers, since the presbyterate suffices to celebrate the sacrifice of the Mass validly. According to this theology, episcopal consecration confers new powers which extend only to the *Corpus mysticum* of Christ, the Church, and the superiority of the bishop over the priest is not at the level of the power of Order, which is identical for both, but at the level of the more extensive power of jurisdiction for the bishop. Thus the theologians of that time considered that the episcopal coronation was not a sacrament but only the accession to a juridical task and to a more eminent dignity²⁹⁰. However, the opinion of St. Thomas in his writings seems quite different²⁹¹.

The teaching of the Council, on the other hand, presents the episcopal consecration as the fullness of the sacrament *Orders****. After having affirmed the presence of Christ in the bishops, an active presence which is manifested in their ministerial functions, through preaching, government and sacramental activity; after having underlined the importance of the outpouring of the Holy Spirit on the Apostles, which confers on them a spiritual gift, the Council founds the sacramentality of the episcopate on two essential elements: mission (fulfilment of ministerial functions) and consecration (Christ, the Supreme Pontiff, *Summus Pontifex*, is present in the bishops)²⁹². The liturgical tradition of the Church and the testimony of the Fathers confirm the doctrine of sacramentality, and *Lumen Gentium* makes use of the expressions *summum sacerdotium*, *sacri ministerii summa* (supreme priesthood, total reality of the sacred ministry), already used by Leo XIII in the letter *Apostolica Cura*** to express it. This fullness of the sacrament of the *Fifth Order* is not to be understood as an addition to the lower degrees of this sacrament, but rather as the supreme priesthood or summit of participation in

Piperno, and is not an authentic work of St. Thomas.

290 For more details, see P. GOYRET, *El Obispo, Pastor de la Iglesia, Estudio uológico del munus regendi en Lumen Gentium 27*, EuNSA, Pamplona, 1998, pp. 225-226. See also S. RYAN, *Episcopal Consecration: the Legacy of the Schoolmen*, in *The Irish Theological Quarterly* 33/1 (1966), pp. 27-28; S. RYAN, *Vatican II: The Rediscovery of the Episcopate in The Irish Theological Quarterly* 33/1 (1966), p. 220.

291 Let us note that St. Thomas provides all the ideas on which it was later based to declare that the episcopate is a sacrament:./

1) the imposition of hands at the time of the consecration of a bishop conferred a grace (Cf. Ha IIæ, q. 184, art. 5, corpus; Sup. 1 Tim. 4, lect. 3, n. 174; Sup. 2 Tim. 4, lect. 3, n. 13).

2) The episcopate, comprising powers which cannot be delegated and prerogatives of head conferred in an indelible manner, is not only a jurisdiction but also an order (in the sense defined by Pseudo-Denis) (Cf. IV Sent., d. 7, q. 3, art. 1, sol. 2, ad 3; d. 25, q. 1, art. 2, ad 2).

3) The "Summus Pontifex" bishop possesses the fullness of the hierarchical order, "totius hierarchis virtus" (Ha IIæ, q. 185, art. 5, c.).

292 Cf. A. ROULHAC DE ROCHEBRUNE, *La présence du Christ dans les évêques selon Lumen Gentium 21*, Dissertation for the licentiate defended at the Ateneo delle Santa Croce, Rome, 1995, p. 113.

the one priesthood of Christ (LG 21).

V - THE SACRED FUNCTIONS OF THE BISHOP ACCORDING TO
the doctrine of Vatican II

The priestly plenitude with which the bishop is clothed includes in itself, in virtue of a connatural requirement, all the powers ordained to the ministry of salvation. Thus, according to *Lumen Gentium n. 21*, episcopal consecration, along with the office of sanctification, also confers the offices of teaching and governing, which, however, by their nature, can only be exercised in hierarchical communion with the head of the College and its members

In the conciliar aula, all the Fathers recognized the threefold function of the bishop, but a certain number of them maintained that while the power of order derives directly from episcopal ordination, the power of jurisdiction - which includes the power of jurisdiction *stricto sensu* or power of government, and the ministry of teaching - was conferred directly by the Supreme Pontiff and generally in virtue of the papal bull of appointment. This conception was based on a very clear separation between two types of power, one sacramental, the other juridical, which the influence of canonists made prevail from the High Middle Ages onwards²⁹³. Thus, according to Joseph Ratzinger:

"The distinction between "Ordo" and "Jurisdictio" arose from the interpretation of a given state of affairs. In practice today (and for a long time), the two are separated, since there is also the bishop *in partibus*, without his own jurisdiction, even though he is consecrated to a certain diocese. And in fact, the residential bishops have theirs, because it has been conferred on them over their diocese by the Pope. The question is certainly not new; it was already at the centre of the Tridentine discussions on the episcopal office²⁹⁴.

Pius XII already pointed out that *the powers of Order and Jurisdiction remain closely linked to the reception of the Sacrament of Order in its various degrees*²⁹⁵. In the consecration, the new bishop is given ontological participation in the sacred offices. This participation, as the *Nota explicativa prœvia* understands it, is sufficiently proven by Tradition and especially by liturgical Tradition. It is necessary, however, to make a clear distinction between *munus*, or function, and *potestas*, or power, which is understood as an effective power, ready to be put into action²⁹⁶.

293 According to Bishop Philips, "provided that it is not systematized excessively, this distinction constitutes an achievement for theology" (G. PHILIPS, *L'Église et son mystère*, Tome I, Desclée, Paris, 1967, p. 254).

294 J. RATZINGER, *op. cit.*, p. 783.

295 PIUS XII, *Allocution to the Second World Congress of the Apostolate of the Laity*, 5 October 1957, in AAS 49 (1957), p. 924.

296 "Consulte adhibetur vocabulum *munerum* non veto *potestatum*, qui hæc ultima vox de potestate *ad actum expedita* intelligi posset. Ut veto talis *expedita potestas* habeatur,

Thus the conciliar text did not merely declare that episcopal consecration gives the germ or the root or the preliminary disposition in view of subsequently receiving true power from the hands of the Pope, but emphasized that episcopal consecration really confers the office, with the grace attached to it, even if its practical exercise still requires a canonical determination from the hierarchical authority²⁹⁷.

The second point of the *Nota explicativa prævía* clarifies the meaning of the expression *Communio hierarchica*. In the proposed text, only the term *Communio* had been foreseen. In order to avoid any possible misunderstanding in the future, the adjective *hierarchica* was added during elaboration of the modi²⁹⁸. We find ourselves at the delicate point of balancing the two aspects of the mystery of the Church, namely the spiritual and essential aspect of communion and the socio-legal aspect of the social body which is the Church. The temptation would be to create an artificial antithesis between a juridical Church and a community of love²⁹⁹. A vision in which the juridical character of the Church predominated may have marked ecclesiology during the XIX^e and early XX^e centuries. The spirit which prevailed during the Council was to emphasize the spiritual character of the Church, especially the

accedere debet *canonica seu juridica determinatio* per auctoritatem hierarchicam" (*NEP2*).

297 Bishop Philips' remark is interesting: "A comparison could be made here with the power to forgive sins which is expressly given to the priest at the end of his ordination, but which does not allow him to give absolution to a sinner immediately. To hear confessions and absolve sins he must receive "jurisdiction" (...). The canonical mission is nothing other than the juridical forms of a good organization of the Community, an organization postulated by the Sacrament itself" (G. PHILIPS, *op. cit.* p. 275). This argument had been used by Bishop Parente in the *Relatio circa Capta III* nn. 22-27, in response to the objections of the *Minority*: "Potestas, etiam jurisdictionis, facultas agendi est, quæ cum ipso actu exercito confundi nequit. Exempli gratia Sacerdos facultatem absolventi peccata recipit in s. ordinatione, quam quidem exercere nequit sine episcopi nutu, excepto periculo mortis.

298 J. Ratzinger tells us that "a good number of the Fathers had apparently understood the term *communio* only in the sense of a relationship without juridical obligation, whereas, in the spirit of the Commission, it was a question of promoting the renewal of the primitive ecclesiology presented by this word. Therefore, it emphasized it in the important passages of the text. In the past, in fact, *communio* was the expression of the obligatory juridical form of the Church, but certainly in the sense of a right whose root was fully sacramental and which had its foundation in the community of the Eucharistic mystery (...) make this thought visible, and with it the primary concern of the text, was the sole intention expressed by the addition of the word *hierarchica*" (RATZINGER, *op. cit.*, p. 784).

299 Pope Pius XII, in the encyclical *Mystici corporis*, had already reproved the opinion of those who wanted to conceive of the Church as a society animated by charity, contrasting it with a so-called juridical Church: "Quapropter funestum etiam eorum errorem dolemus atque improbamus, qui commenticiam Ecclesiam sibi somniant, utpote societatem quandam caritate alitam ac formatam, cui quidem - non sine despicientia - **aliam opponunt**, quam juridicam vocant. At perperam omnino eius modi distinctionem inducunt : non enim intellegunt divinum Redemptorem eadem ipsa de causa conditum ab se hominum coetum, perfectam voluisse genere suo societatem constitutam, ac iudicis omnibus socialibusque ut saluti - ferem redemptionis opus hisce in terris perennaret; et ad eundem finem assequendum caelestibus eam voluisse donis ac muneribus a Paráclito Spiritu ditatam " (AdS35 [1943], p. 224).

values of Communion. If there has been a danger in past centuries that spiritual realities may have been obscured for the sake of a narrowly juridical economy, this does not mean that law and legislation should be dismissed as erroneous or negative conceptions not suited to the splendor of the face of Christ's bride. The Church remains both a Body animated by the Holy Spirit and a structured society³⁰⁰. For this reason, the *Nota explicativa pravia* was careful to specify that the communion in question *is vague feeling, but an organic reality which requires a juridical form and, at the same time, is animated by charity*⁹¹.

In short, according to the teaching of Vatican II the power of episcopal jurisdiction ready to be exercised in act rests on the concurrence of two distinct but necessary elements:

- the episcopal consecration which confers the *munus*, but which alone, without the second element, does not imply a power capable of being exercised in act³⁰¹.
- canonical determination, the form of which may vary according to time and custom, but which always requires hierarchical communion with the Pope and the College. And it is the Supreme Pontiff who confers this canonical determination, either explicitly or implicitly, in virtue of the norms or customs recognized by the Apostolic See, in force according to place and time"

VI - THE ORIGIN OF THE POWER OF JURISDICTION ACCORDING TO THE VATICAN COUNCIL

To the long-debated question of the origin of jurisdiction, the Council, thanks to LG 21 and the *Nota explicativa pravia*, has provided elements of an answer that facilitate a more adequate theological approach to this theme, even if some theologians or canonists continue to discuss it. We do not intend to enter into the debate, given the limited dimensions of our work. Suffice it to say that the ordinary magisterium of the Popes prior to the Second Vatican Council seemed to have taken a position in the sense of an immediate collation

300 In the Constitution *Sacra disciplina leges* of 25 January 1983, introducing the Code of Canon Law, Pope John Paul II tells us: "Ac revera Codex Iuris Canonici Ecclesiae omnino necessarius est. **Cum ad modum etiam socialis visibilisque compaginis sit constituta, ipsa normis indiget, ut ejus hierarchica et organica structura ad spectabitur fiat**, ut exercitium munerum ipsi divinitus creditorum, sacrae praesertim potestatis et administrationis sacramentorum rite ordinetur, ut secundum justitiam in caritate innixam mutuae christifidelium necessitudines componantur, singulorum iuribus in tuto positibus atque definitis, ut denique communia incepta, quae ad Christianam vitam perfectius usque vivendam suscipiuntur, per leges canonicas fulciantur, muniantur ac promoveantur" (JOHN PAUL II. *Constitution Sacra Disciplina Leges*, 25 January 1983, in AAS 75 [1983], pars II, pp. XIV-XV).

301 *CI.NEP2*.

of the power of jurisdiction to the bishops by the Pope³⁰². Moreover, the survey of theological manuals and works written before the Second Vatican Council, which we have discussed extensively in Chapter II, overwhelmingly shows this view of the origin of the power of jurisdiction. The *Nota - explicativa preveia* now invites us to consider these texts in the sense of the necessity of a canonical or juridical determination on the part of the hierarchical authority: *The documents of recent Pontiffs concerning the jurisdiction of bishops must be interpreted according to this necessary determination of powers*³⁰³.

It is interesting to note how Bishop Parente responds, in the - official *Relatio*, to the objection of those who fear a contradiction between the teaching of the conciliar text and the previous Magisterium:

- What Pius XII teaches in the encyclical *Mystici Corporis* concerning the origin of episcopal power from Christ through the Roman Pontiff does not contradict our text in any way; the latter affirms that this power, although it comes from Christ, can only be considered in dependence on the Roman Pontiff, both as regards its existence (because of the organic structure of the Church in the *manner of an ordered society*) and as regards its exercise. *But the papal documents do not require the Roman Pontiff to create this power in the bishops, but rather, I would say, they reprove it*³⁰⁴.

Some theologians like M. Nicolau³⁰⁵ or distinguished canonists like G.

302 Pius XII, in the encyclical *Mystici corporis*, affirmed: "quamvis ordinaria jurisdictionis potestate (episcopi) fruuntur, **immediate sibi ab eodem Pontifice Summo impertita**" (AAS 35 [1943], p. 212). In the encyclical *Ad Sinarum gentem* of the same Pope we find: "jurisdictionis autem potestas, **quæ Supremo Pontifici jure ipso divino directe confertur, Episcopis ex eodem provenit jure, at non nisi per Petri Successorem (...)**" (AAS 47 [1954], p. 9). 9); in the Encyclical *Ad Apostolorum principes* of Pius XII we read again: "Episcopi nec nominati nec confirmati a Sede Apostolica (...) nulla fruuntur potestate magisterii et jurisdictionis, **cum jurisdictione episcopis per unum Romanum Pontificem obtingat**" (AAS 50 [1958], 610). John XXIII, in his address of 15 December 1958, points out: "ut sacrilegam episcopalem consecrationem acciperent, **ex qua nulla profecto oriri potest jurisdictio, cum sine Apostolico mandato peracta fuerit**" (AAS 50 [1958], p. 983).

303 NEP 2.

304 *Relatio circa Caput III* nn. 22-27, in *Conc. Un. II Syn. p.* 2073.

305 M. NICOLAIO, *El episcopado en la constitución "Lumen Gentium"*, in *Sal-manticenses* 12 (1965), p. 505.

Ghirlanda³⁰⁶, J. Souto³⁰⁷, consider that the Second Vatican Council did not bring about any change in the position they call traditional. However, in a number of studies written on this topic after the Council, many theologians and canonists argue in favour of an immediate collation of the bishops' power of jurisdiction at the moment of episcopal ordination³⁰⁸.

Thus we allow ourselves to quote P. Goyret who synthesizes this analysis well:

From a simple reading of the key texts on the subject at hand, considering them only at face value, it would seem that the Second Vatican Council did not resolve this controversial issue. The intention of the Fathers was not to resolve it entirely. And yet, a careful reading of the genesis of these texts and the sense in which they were passed shows that this intention exists: the Council opted for the theological tradition which not only affirms the sacramentality of the episcopate, but which also considers the sacrament of order as the only primary source of the episcopal mission in the Church, affirming the sacramental origin-*potestas jurisdictionis* ^{*309}.

It is fair to say that, at the third conciliar session, one of the modi suggested by some Fathers in relation to LG 21b was to introduce the term *radicaliter, aptitudinaliter, dispositivè* or other, to describe the effect of episcopal consecration in relation to the *munera docendi, et regendi*. The Doctrinal Commission did not accept these adverbs, alleging that they contradicted the text of the Constitution: *episcopal consecration, together with the office of sanctification, also confers the offices of teaching and governing, which, however, by their nature, can only be exercised in hierarchical*

306 It is interesting to read also the point of view and the arguments of G. Ghirlanda who affirms: *Una cosa risulta indubbia: la Commissione Dottrinale non ha voluto entrare nella questione disputata del Porigine della potestà di giuridizione [One thing is clear: the Doctrinal Commission did not want to enter into the disputed question of the origin of the power to govern]* (G. GHIRLANDA, *Hierarchia Communio*, Università Gregoriana Editrice, Roma, 1980, pp. 418 & seq.). One of the points of his argument is based on a reply of Theological Commission to Modum 200 :

*(...) Duo Patres proponunt ut textus sic legatur: *Potestas ordinis sacri, qua ex instituto Christi in Episcopis residet, vario gradu variis subiectis in Ecclesia participatur*. 130 alii Patres petunt ut deleantur verba : *qua ex missione Christi in Episcopis residet*, ne tangantur quaestiones disputatae de modo immediato derivationis potestatis jurisdictionis "

Official reply to the Modum: "*Utrique petitioni, ex accepta modificationis textus sub Modo 199, jam satisfactum est*" (AS III, vol. VIII, pp. 96-97). This answer, according to Ghirlanda, clearly shows that the Council did not want to enter into the question of the medial or immediate origin of the power of jurisdiction

307 Cf. J SUÛTO, *La potestad del obispo diocesano*, in *Ius Canonicum* 7 (1967) pp. 365-449.

308 It is useful to refer to P. GOYRET, who examines the question in detail the work: *El Obispo, Pastor de la Iglesia, Estudio teológico del Munus regendi en Lumem Gentium* 27, EUNSA, Pamplona, 1998 pp. 210-221.

309 P. GOYRET, *op. cit.* p. 215.

*communio with the head of the College and its members*³¹⁰.

From this answer of the Doctrinal Commission it can be deduced that the sacrament of episcopal ordination confers not only the *munus regendi* and the *munus docendi* in a device, embryonic, virtual, potential, etc., mode, but in its full amplitude, as it does for *themunus sanctificandi*¹ ®*. Hierarchical communion is only a *sine qua non* condition which does not concern so much the existence of the office conferred as its exercise³¹¹.

Cardinal P. Parente, a member of the Theological Commission during the Council and official reporter of numbers 22-27, wrote on this subject in 1968, four years after the promulgation of the conciliar text: *We must conclude by saying that the Council teaches that in virtue of consecration, de jure divino, the bishop receives the participation of all the "sacra potestas" of the Church, including the "potestas jurisdictionis"*¹¹ k

VII - THE COLLEGIAL CHARACTER OF THE EPISCOPAL ORDER AND THE SACRAMENTAL FOUNDATION OF COLLEGIALITY

After having spoken of the institution of the Apostolic College, of the bishops as successors of the Apostles, and then having established the doctrine on the sacramentality of the episcopate, the Constitution *Lumen Gentium*, in number 22, affirms the collegial character of the episcopal order: *just as St. Peter and the other Apostles constitute, by the Lord's institution, a single Apostolic College, so also the Roman Pontiff, the Successor of Peter, and the bishops who are successors of the Apostles, form among themselves a single whole*

As we saw in paragraph II, the Apostles formed a College or stable group with Peter at its head. It follows logically that the Bishops, with the Successor of Peter at their head, also form a whole, so that the Church entrusted by Christ not only to Peter but also to the other Apostles, is the object of the solicitude not only of the Successor of St. Peter, but also of all the Bishops, successors

310 "39 - Plures Patres (52) proponunt ut dicatur consecrationem episcopalem conferre munus sanctificandi, et ita subjectum disponere et aptum efficere, ad munera docendi ac regendi. Alii (48) proponunt: haec munera radicaliter vel aptitudinaliter conferuntur. Rursus alii (57) dicunt: radicaliter, 7: secundum aptitudinem, 4: dispositive, 3: virtualiter, 4: in potentia vel in actu primo, 9: datur gratia in ordine ad illa munera.

"R - Omnes illae lectiones variantes textui approbato contradicunt, quippe qui affirmat consecratione conferri, cum munere sanctificandi, etiam munere regendi ac docendi, cum hac quidem restrictione quod est ultima extra communionem exerceri non possunt. Ad quam restrictionem (quae pag. 63, lin. 34-36 recurrit), hi Patres probabiliter non satis attenderunt. Unde stet textus" (/IS III, vol. VIII, p. 62).

311 Cf. A. ACERBI, *Da una ecclesiologia giuridica a una ecclesiologia di comunione*, Facoltà Teologia Interregionale dell'Italia Settentrionale, Centro Editoriale Dehoniano, Bologna, 1975, p. 533: "Ricevendo la consacrazione nella piena comunione ecclesiastica il neoeletto riceve *vi consecrationis* la potestà in senso proprio, anche esteriormente costituita e canonicamente valutabile".

of the other Apostles

This is a requirement for the continuity of the Church in its original identity. The existence of the Apostolic College entails the existence of the College of Bishops which succeeds it³¹², even if there is no equality but simply a proportionality between the Peter-Apostles relationship and the Pope-Bishops relationship, as *the Nota explicativa pnvvia*³¹³ points out. 22 manifests this similarity and proportionality, and has been added on purpose in preference to *eadem ratione* (in the same way).

Let us note that if Holy Scripture demonstrates that Saint Peter and the other Apostles constituted a single College, as the text of *Lumen Gentium* n. 19 indicates, it does not allow us to prove in itself that the Pope and the bishops constitute *eadem ratione* a College³¹³.

The conciliar text was not content to show by way of deduction the existence of the College of Bishops from the College of Apostles, but was anxious to describe the effective manifestations of the collegial nature of the episcopate.

Thus the particular bond of *communio*, or bond of faith, charity and

312 This doctrine is clearly affirmed in *LG* 22 b: "Ordo autem Episcoporum, qui Collegio Apostolorum in magisterio et regimine pastorali succedit, immo **in quo corpus Apostolicum continuo perseverat** (...)".

313 The official response of the Biblical Commission to the request of Paul VI on May 13, 1964, is worth quoting, since it clearly indicates the reason for the introduction of the term *pari ratione*. One of the requests presented to the said Commission was the following: "Quoad assertum "statuente Domino", ex quo n. 22 initium sumit, Commissio dicat an et quibus textibus Sacrae Scripturae probari possint ea quae in citato loco affirmatur".

The answer was this:

"Ad 1"® **S. Scriptura probatur**: "Statuente Domino, sanctum Petrum, et ceteros Apostolos unum Collegium Apostolicum constituisse; cf. ea quae habentur in Constitutione n. 19".

Ad 2"" **e sola Scriptura non constat**: "eadem ratione, Romanus Pontifex successor Petri, et Episcopi, successores Apostolorum, inter se coniunguntur".

Fundamentum tamen scripturisticum praebent hi textus quibus voluntas Domini manifestatur ut Collegium Apostolicum a se fundatum maneat usque ad consummationem saeculi.

In *Mu* 28, 16-20 "Undecim" discipuli debent docere omnes gentes, easque baptizare, illisque "Undecim" Christus Dominus suam praesentiam promittit "usque ad consummationem saeculi".

In *Apoc.* 21, 14 legitur: "Et murus civitatis habens fundamenta duodecim, et in ipsis duodecim nomina duodecim Apostolorum Agni", quo indicatur duodecim Apostolos esse fundamentum Ecclesiae.

In *Mk.* 16,14-18 "Undecim" mittuntur in mundum universum et debent praedicare Evangelium omni creaturae.

Quomodo autem re haec voluntas Domini executioni mandata sit et qua forma illud Collegium in Ecclesia permansurum sit, id in S. Scriptura non dicitur sed eruendum est e doctrina Ecclesiae, quae Spiritu Sancto duce, hanc voluntatem interpretata est ("*Votum Pontificiae Commissionis de Re Biblica circa n. 22 schematis "De Ecclesia"*", in *AS* III, vol. I, pp. 13-14).

peace, which from the beginning unites the bishops among themselves and with the bishop of Rome, is one of the forms which manifest this collegial character. As the *Nota explicativa pravia* states, *communion is a concept held in high honor in the ancient Church (as it is even today, especially in the East)*³¹⁴.

If the regional councils are only an indication of the collegial nature of the episcopate, the Ecumenical Councils are a clear demonstration of it. The Council of Nicaea, in 325, made it a law to hold a council in each province twice a year³¹⁵. In the Ecumenical Councils, the decision taken is not only a decision of the Pope, nor only a decision of the other bishops, but it is the fruit of a collegial act, a decision *synodaliter statuta* (decided synodically). This is how Pope Paul VI expresses himself in the promulgation formula of each of the conciliar documents.

Finally, the ancient liturgical practice of the participation of several bishops in the consecration of a newly elected bishop signifies the introduction of a new member into the College of Bishops. This historical fact indicates and underlines the collegial aspect of the Episcopal Body³¹⁶.

As we have seen in paragraph VI, episcopal ordination constitutes the ontological basis of the ministerial functions which the bishop exercises in the hierarchical communion *cum Petro et sub Petro*. At the Second Vatican Council, the sacramentality and collegiality of the episcopate were affirmed together, respectively in numbers 21 and 22 of *Lumen Gentium*, and as logically related to each other. Already in number 19, mention is made of the whole pastoral office which Christ bequeathed to his Apostles as destined to be transmitted to their successors: that *they (the Apostles), participating in his power, might make disciples of all peoples, sanctifying and governing them, and thus propagating the Church and carrying out for her, under the guidance of the Lord, the pastoral ministry every day until the consummation of the ages*. Sacramental ordination transmits to the bishops the content of the apostolic succession, which is participation in a reality originally existing *in solidum* in the Apostolic College. This content, which goes beyond the strictly juridical functions of government, embraces the entire pastoral function of Christ the Head and ultimately comes down to the unique authority of the

314 NEP 2. In this regard, Bishop Philips rightly says: "Let us recall the letters of Clement of Rome, Ignatius of Antioch, Polycarp of Smyrna, and Irenaeus of Lyon. Eusebius of Caesarea also cites the testimony of Dionysius of Alexandria as proof of the communion between the churches. Everywhere special importance is attached to concord with the one who occupies the See of Peter in Rome, and it is to him that, in the conflicts that have arisen, they ask to settle the debate" (G. PHILIPS, *op. at.*, p. 254).

315 Cf. U. Birm, *La dottrina sull'episcopato nel Vaticano II* (Città Nuova, Roma, 1968), p. 363; G. PHILIPS, *op. cit.*, p. 288.

316 The constitution *Lumen Gentium*, in paragraph 22, without forcing the objective data of this ancient liturgical practice, remains discreet in its affirmation. It limits itself to saying that this usage indicates (*inuit ipse usus*) the character and nature of the collegial order.

Christ³¹⁷. This unique authority of Christ transmitted to the Episcopal Body, which succeeds the College of Apostles, is conferred sacramentally on each bishop, who becomes heir to the apostolic ministry, which by its nature is one and indivisible

P. Goyret, in his work *El obispo^pastor de la Iglesia*, underlines how the constitution *Lumen Gentium*³¹⁸ speaks of the presence of Christ the Shepherd, not so much in the bishop considered singularly as in the bishops taken collectively³¹⁹. This presence of Christ the Shepherd, which is perpetuated in the Body of Bishops, is conferred by the sacrament of episcopal ordination by means of which a subject, while receiving the episcopal office, simultaneously becomes member of the Body of Bishops, the two realities being intimately linked. Episcopal ordination is the sacramental root of the insertion of a bishop into the Episcopal Body and consequently into the College of Bishops. The word of the Council, which reminds us that *in virtue of sacramental consecration and hierarchical communion with the Head of the College and its members that someone is made a member of the Episcopal Body*^{2X}, cannot better affirm the sacramental foundation of the College of Bishops. In other words, the foundation of episcopal collegiality is to be found in the sacramentality of the episcopate which is conferred by the external act of consecration, an act which imparts a sacred character to the bishops, makes them members of the College if they enjoy *hierarchical communion*, and confers on them the three *munera*^{X22}.

VIII - THE STRUCTURE OF THE EPISCOPAL COLLEGE

The structure of the College of Bishops reveals a clear hierarchical aspect: on the one hand, the members of the Episcopal Body, that is, the bishops, legitimate successors of the Apostles, and on the other hand, the Pope, successor of St. Peter and head of this College. It is important to understand what defines and differentiates the respective roles of the head in relation to

³¹⁷ The Catechism of the Catholic Church agrees well with this view when it states: "Order is the sacrament by which the mission entrusted by Christ to his Apostles continues to be exercised in the Church until the end of time: **it is therefore the sacrament of the apostolic ministry**" (CCC, 1536).

³¹⁸ In *Lumen Gentium* 21 we read: "So then, in the person of the bishops assisted by the priests, it is the Lord Jesus Christ, the supreme Pontiff, who is present in the midst of the believers. Seated at the right hand of God the Father, he never ceases to be present to the community of his pontiffs. It is through them in the first place, through their eminent service, that he preaches the Word of God to all nations and continually administers to believers the sacraments of the faith

³¹⁹ * Una lectura atenta del entero cap. III revela que esta presencia de Cristo Pastor, y de su función pastoral, se encuentra en la Iglesia de modo colegial. Es justamente esto el fundamento de la doctrina sobre la colegialidad episcopal. No se habla de la presencia de Cristo en el obispo, sino en los obispos" (Fr. GOYRET, *El Obispo, Pastor de la Iglesia, Estudio uológico del munus regendi en Lumen Gentium* 27, EUNSA, Pamplona, 1998, pp. 275-276).

the members and the members in relation to the head.

VIII - 1. The members of the College of Bishops

The aggregation of a bishop to the College of Bishops is effected at the moment of consecration, provided that it is legitimate, that is, it is done in hierarchical communion with the Head and with the other members of the College. This implies that the Pope recognizes the new bishop as such, with all the effects that flow from this, and that the newly elected bishop, in turn, recognizes the Pope as head of the College, with all the prerogatives with which he is invested as Successor of Peter. Both of these things are included in the consecration, when it takes place without explicit or implicit opposition to the Pope's will. As Bishop Philips points out³²⁰, the two conditions required, namely the consecratory rite and the observance of hierarchical communion, do not intervene in the same way, as the wording of the conciliar text proves: one becomes a member of the College *in virtue of the sacramental consecration (vi consecrationis)* and by means of communion (*communione*, in the ablative). The conciliar text does not put *vi consecrationis* and *communione*, suggests that consecration plays the role of efficient cause while hierarchical communion is rather a *sine qua non condition*³²¹. As we have seen, *communio hie-*

320 Cf. G. PHILIPS, *op. cit.* p. 289. The author also recalls that to the question: "Is every legitimately consecrated bishop, in communion with the bishops and the Pope who is their head and the principle of their unity, a member of the Body of Bishops?", the Council Fathers had answered overwhelmingly placet (2154 placet for 104 non placet). Cf. also U. BETTI, *op. cit.* pp. 365-366.

321 Antonio Acerbi explains quite well the necessity of these two elements required to belong to the College of Bishops: "The episcopal consecration and the legal factors, in which the desire for the *communio* of bishops is expressed, operate on different levels. From the time of consecration, the neoleito has that participation in the functions of Christ (character, charism and grace), which makes him a priest, master and pastor in the Church and for which he is incorporated into the Episcopal College, so that he has a share in the function and power of order and governance, which is proper to the inner body. However, the *gregarious union* is a condition, variable in intensity and time, whose lack constitutes an obstacle to incorporation of the neo-leader into the College. Through the consecration in the fullness of ecclesiastical communion the neoleito will consecrate the power in its own sense, even though it is already constituted and canonically valid. Ma se il Papa rifiuta la comunione (o la toglie), il vescovo non può essere assunto nell'ufficio (o ne è deposto)" (A. ACERBI, *Da una ecclesiologia giuridica a una ecclesiologia di comunione*, Facoltà Teologica Interregionale dell'Italia Settentrionale, Centro Editoriale Dehoniano, Bologna, 1975, p. 533).

The necessity of the two elements is also recognised by G. Ghirlanda in his analysis of *modus n. 62 (AS III, vol. VIII, pp. 68-69, [21])* "È da tener presente che secondo ultima risposta l'elemento della *consecratio* e quello della *communio cum Collegii Capite atque membris*, non sono dello stesso ordine, ma non determina in che rapporto stiano tra di loro. Comunque è chiaro che ambedue sono necessari (G. GHIRLANDA, *op. cit.* p. 400, footnote 482).

rarchica is necessary for the exercise of the offices of teaching and government; we now find that it is necessary for membership of the College.

should be noted that a Bishop's membership in the College of Bishops opposes the particular mission he assumes in the diocese of which he is responsible, but it does underline the twofold dimension of his ministry, a ministry of communion and love, at the service of the universal Church and the particular Church entrusted to him. In virtue of his insertion in the College, the Bishop is first of all at the service of the universal Church, which lives and develops in the particular Church. The universal Church, as *Communio Ecclesiarum*, has a theological priority in relation to the local Churches³²², a priority that is fully compatible with the mutual interiority that exists between these two realities. The insertion of a bishop into the College is the reason for this daily solicitude or concern of all the Churches³²³, a theme which we will speak about more extensively in paragraph X of this chapter

Wine - 2. the Head of the Episcopal College

The Episcopal College, of which we now know the conditions of membership, cannot be conceived without its head, in virtue of an intrinsic requirement, both on the ontological and operative levels. The *Nota explicativa pravia* clearly states: *The College does not exist without its Head*¹²¹, and a little further on: *The College necessarily and always understands itself with its Head, who in the College integrally keeps his office as Vicar of Christ and Pastor of the universal Church*¹²³. If the Pope is not a *primus inter pares* in the College, to whom an honorary or presiding role would have been assigned, he should not be considered as an external subject who would supervise the Body of Bishops. He remains within the College as a constitutive and indispensable element. Both the head and the members are necessary, simultaneously, though in different ways, for the existence and permanence of the College³²⁴.

In virtue of his episcopacy and his relationship to the Church, the Pope is a member of the College; in virtue of his identity as Successor of Peter, he is the head of the College and the *perpetual and visible principle and foundation of the unity of the episcopate*³²⁰.

It should be recalled that the Constitution *Pastor aeternus* of Vatican I defined the Pope's power of jurisdiction over the universal Church as *truly*

322 This theological priority of the *Communio Ecclesiarum* particular Church is well emphasized in the Letter *Communio in notio* "The Primate of the Bishop of Rome and the College of Bishops are elements proper to the universal Church: not derived from the particularity of the Churches, though interior to every particular Church" (CN13).

323 U Cor. 11:28.

324 As the letter of the Congregation for the Doctrine of the Faith on *Certain Aspects of the Church Understood as Communion* of May 28, 1992, (CN 12) states, "the unity of the episcopate requires the existence of a bishop. Head of the Body or College of Bishops, who is the Roman Pontiff".

*episcopal*³²⁵. This episcopal qualifier, attributed to the *potestas* of the Supreme Pontiff, is ordinarily used to designate the *potestas* of the bishop over the portion of the flock entrusted to him. The bishop has power over all that is necessary to obtain eternal life for the sheep under his care. The Pope, who has received from Christ the mandate to shepherd the whole flock, the simple faithful and also pastors, can do in the universal Church all that the bishop does in his particular Church. The *potestas episcopalis* of the Pope in the universal Church is of the same nature as the *potestas episcopalis* of the bishop in his own diocese³²⁵. The difference lies in the fact *potestas* of the Roman Pontiff, which has no other end than the service of the unity of the Church³²⁶, is full, independent, and without limit, while that of the bishop, who is at the service of a limited group of persons, is restricted, dependent, and limited³²⁷. But in essence, the *potestas* of the Pope over the whole of the faithful is no different from that exercised by the bishop over the portion of the flock entrusted to him, for they both derive from the same source, Jesus Christ, the

325 The term *ordinaria* added as a qualifier to the *potestas episcopalis* of the Pope is to be understood in the sense of *qui competit alicui ratione muneris* (cf. the report of Bishop Zinelli, [MANSI 52, 1105C]). To understand how the two episcopal and ordinary jurisdictions of the Pope and the bishop over the same particular Church can be reconciled, one can refer to the work of G. THILS, *Primaute pontificale et prerogatives episcopales*. Éditions Waryn, Louvain, 1941, pp. 75-94.

326 The formal reason for the Pope's *potestas jurisdictionis* is expressed in the præmium of the Constitution *Pastor esterus*: "Ut vero episcopatus ipse unus et indivisus esset, et per coherentes sibi invicem sacerdotes credentium multitudo universa in fidei et communionis unitate conservaretur, beatum Petrum ceteris Apostolis præponens in ipso instituit perpetuum utriusque unitatis principium ac visibile fundamentum..." (DS 3051).

327 The addition of the qualifier *episcopalis*, deliberately inserted in the definitive version of *Pastor æternus*, was not without provoking heated discussions in the conciliar aula. Archbishop Zinelli, in the official report which we have already had occasion to quote in the first part, gives a perfect account of the episcopal character of the power of jurisdiction of the Supreme Pontiff over the universal Church. According to him, it is important to understand that the Pope's jurisdiction is as immediate and direct over every Catholic in the world as is that of a bishop over his flock. The Roman Pontiff is a true pastor, preceptor, governor, and proper bishop of all the faithful. Therefore his power extends as much over the faithful of the whole world as over the faithful of Rome. For these reasons the Pope is sometimes called the *Bishop of the Roman Catholic Church*, or the *Bishop of Bishops* (cf. MANSI 52, 1103D-1106B). Thus Paul VI, in continuity with his predecessors, signs the conciliar documents by adding behind his name the qualifier of *Episcopus Ecclesie Catholice*. R. MINNERATH rightly reacts against an abuse of these expressions which lead one to think that, in a usual way, the Pope is the only bishop who administers the universal Church, while the other bishops would only be delegates of the Pope or prefects installed by him; he prefers to underline that the function of pastor of the universal Church is a consequence of the office of bishop of Rome (R. MINNERATH, *Le Pape, évêque universel ou premier des évêques?*, Beauchesne, Paris, 1978, p. 118). On this subject, one can also refer to the article by W. F. DEWAN, "Potestas vere episcopalis" at the first Vatican Council, in *L'Épiscopat et l'Église universelle*, Coll. *Unam Sanctam* 39, Les Éditions du Cerf, Paris, 1962, pp. 661-687. Cf. also the article by G. THILS, "Potestas ordinaria", in *Episcopate and the Universal Church*, Coll. *Unam Sanctam* 39, Les Éditions du Cerf, Paris, 1962, pp. 689-707. John Paul II usually prefers to add the epithet *Episcopus, servus servorum Dei*, in solemn documents

one Shepherd, in whom all the shepherds are one³²⁸.

IX - THE COLLEGIAL EXERCISE OF SUPREME POWER IN ACCORDING
TO
THE VATICAN II DOCTRINE

IX - 1. The College of Bishops, subject of the supreme and plenary power over the universal Church

If the Constitution on the Church can be considered the cornerstone of all the work of the Second Vatican Council, to which many documents refer, it is also fair to say that one of the key points of this constitution consists in the following proposition (*Lumen Gentium* n. 22):

"The Order of Bishops, which succeeds the Apostolic College in magisterium and pastoral government, much better in which the Apostolic Body is perpetuated, constitutes, too, in union with the Roman Pontiff, its head, and never apart from that head, the subject of a supreme and plenary power over the whole Church"³²⁹.

is difficult to imagine all the efforts, the work, the confrontations, the emotions, and sometimes the passions that the elaboration of these simple lines could have provoked. Among all the debates and assemblies of the Council Fathers, the doctrine thus signified was one of the most delicate and most discussed topics, on which the highest authority of Church herself had to intervene personally, in order to clarify its formulation and to facilitate its later interpretation.

We have sufficiently demonstrated in the preceding chapters how this doctrine, resting on solid traditional foundations, was in fact the echo of a general intuition shared in past centuries, highlighted already on the occasion of the First Vatican Council and finally officially affirmed at Vatican II.

Thus the supreme power over the universal Church which the Pope has,

³²⁸ It is interesting to read on this subject: P. RODRÍGUEZ, *Relazione di Pedro Rodriguez, in II Primato dei Successore di Pietro, Atti del simposio teológico (Roma, December 1996)*, Libreria Editrice Vaticana, 1998, pp. 454-466. Cf. also P. GOYRET, *El Obispo, Pastor de la Iglesia, Estudio teológico del munus regendi en Lumen Gentium 27*, EUNSA, Pamplona, 1998, pp. 283-287.

³²⁹ This statement has been taken up in the Code of Canon Law, which states it somewhat differently: "Collegium Episcoporum, cuius caput est Summus Pontifex cuiusque membra sunt Episcopi vi sacramentalis consecrationis et hierarchicae communionis cum Collegii capite et membris, in quo corpus apostolicum continuo perseverat, una cum capite suo, et numquam sine hoc capite, subiectum quoque supremæ et plenæ potestatis in universam Ecclesiam existit" (*CIC* [1983], canon. 336).

according to the teaching of the constitution *Pastor aeternus*, is also the property of the College of Bishops, in which the Pope occupies the place of head, and without whose assent the College cannot exercise any power. As the *Nota explicativa praevia* states, the **College**, which **does not exist without its Head**, is **also subject to the supreme and plenary power in the universal Church**³³⁰. Given the eminent place which this doctrine, which so clearly highlights the role of the episcopate, now occupies in ecclesiology, it is not useless to distinguish its essential elements and its implications.

IX - 2 Exercise of Supreme Power and plenary on the universal Church

The question remains as to how the supreme power over the universal Church enjoyed by the Roman Pontiff is exercised in harmony with that enjoyed by the College of Bishops, *una cum capite suo* (in union with its Head).

IX- 2.1. Unity of the supreme power

The supreme power considered in itself, even if it is manifested in the Church according to a double mode, personal or primatial mode by the Pope himself or collegial mode by the College of Bishops, loses nothing of its uniqueness. It is always the same supreme power which is exercised sometimes by the Pope alone, sometimes by the College of Bishops.

As Archbishop Parente pointed out in the official report on Chapter III, in response to the difficulties raised by some in the face of the new doctrine proposed³³⁰: ***the potestas remains unique*** (*And the two difficulties disappear, if one realises correctly that the potestas of the Church, which Christ conferred on the entire Apostolic College (that is to say, on Peter and the other Apostles), is not twofold but unique*

It is worth noting that an act will be considered collegial insofar as it is

³³⁰ We quote in extenso the passage delivered on this point by the official reporter, Bishop Parente:

- Non dirimitur questio de unitate vel pluritate subjecti, sed etiamsi sint duo subjecta, inadaequate quidem distincta, unica manet potestas; quae quidem etiam extra Concilium collegialiter exerceri potest, dummodo S. Pontifex, pro suo supremo jure, episcopatum ad actum collegialem invitet et vocet. Neque magna facienda est difficultas contra vocem "plena", quae potestati tum R. Pontificis solius tum R. P. et episcoporum cum ipso conjunctorum tribuitur.

Fortasse major est difficultas de voce "suprema", quam tamen *CIC* tribuit Concilio Ecumenico.

Sed utraque difficultas evanescit si recte consideretur, ut iam innuimus, non **duplicem esse potestatem** Ecclesiae sed unicam, quam Christus integro Collegio Apostolico (Petro et Apostolis ceteris) contulit" (*Relatio circa Caput III*, nn. 22-27, in *Cone. Vat. II Syn.*, p. 2071).

the fruit of a common action of the Episcopal Body and insofar as the Head of the College has decided to make it his own. For such an act to be feasible and therefore valid, it is required that the Pope retain the initiative or at least sanction it as valid. It is clear that we are not dealing with two powers (the power of the Pope and the power of the College) which compete with each other or are in competition with each other, but with one and the same power which is exercised in different ways³³¹. It seems that the Thomistic distinction between the *integral* and the *potestative* adequately accounts for this uniqueness of the supreme power exercised either by the Pope alone, or by the College of Bishops who participate in this power. Concerning the sacrament of order, we read in the Supplement to the Summa Theologica of St. Thomas: *The distinction of order is not that of the integral whole in relation to the parts, nor that of the universal whole, but that of the potestative whole. It is proper to the latter that the whole which is found in one subject according to its complete reason, is found in another according to a certain participation*[^]. By analogy, in the case of the government of the Church, the bishops with the Pope at their head do not constitute an integral whole (that is, a whole in which power is shared among all its holders placed at the same level, like a parliamentary assembly or a College in the juridical sense of the word), but a potestative whole, i.e. a stable group in which the supreme power of the Pope is exercised both collectively (or *in solidum*) and hierarchically (i.e. with the greatest respect for the primatial authority which remains) by the members of the College **who effectively participate in the single power**³³².

The uniqueness of the supreme power harmonizes very well with the twofold mode of exercising this power, for it is always the Roman Pontiff who decides on the personal or collegial mode of exercising it, and it is he who ratifies and sanctions the final decision³³³. In his address on 21 November 1964, at the close of the third session of the Council, Pope Paul VI was pleased to stress this unity of power: *It is this intimate and essential relationship which*

331 As Pope John Paul II said in the Motu proprio *Apostolos suos* of 21 May 1998: "The power of the College of Bishops over the whole Church is not the sum of the powers exercised individually by the Bishops in their particular Churches; it is an **anterior reality** in which the Bishops participate, and they cannot act on behalf of the whole Church except collegially" (*Apostolos suos* 12).

332 This is how the Nota explicativa præviva takes care to mention. - Collegium enim necessario et semper Caput suum cointellegit, quod in Collegio intergrum servat suum munus Vicarii Christi et Pastoris Ecclesiae universalis" (*NEPÒ*).

333 As U. Betti: "It is unfortunate that the very domain of the primacy obliges us to remember that the power possessed by the Pope alone and by the internal Council is one and the same. If this were not the case, the power of the Father himself would be diminished, because in the College he is always included with all the prerogatives conferred by Christ: not as the holder of a different and foreign power, but as the head and centre of the College, in strength of his own power which he has and maintains in it" (U. Bimi, *La dottrina sull'episcopato nel Vaticano II*, Città Nuova, Roma, 1968, p. 372).

*makes the episcopate a unitary body, which finds in the Bishop successor of St. Peter not a different and foreign power, but its centre and head, which makes Us celebrate your prerogatives at the same time as Ours*³³⁴.

IX - 2.2 Dual mode of exercise of this power

As we have already said above, the exercise of the supreme power of jurisdiction is exercised in two distinct ways, either by the action of the Pope alone (i.e., without the direct assistance of the Episcopal Body), or by the action of the College (*cum capite suo*).

These two modes respond to very different criteria, summarized as follows by Bishop Parente in the *Relatio super Caput III: The Pope possesses this power in a habitual and immediate way (habitu et actu), but the bishops possess it only in a habitual way (tantummodo habitu) and this power in them cannot be put into action independently of the Roman Pontiff*³³⁵.

The power enjoyed by the College of Bishops is the same as that enjoyed by the Roman Pontiff, and are usually in possession of it, but the power of the College can only be put into effect by invitation of the Supreme Pontiff, or by the latter's approval or free acceptance of a common action taken by the bishops³³⁶.

IX - 2. 2, 1. Action of the Supreme Pontiff alone

The purpose of the *munus petrinum* is the unity of faith and communion³³⁷ of all believers. The Pope, as the *perpetual principle and foundation of the unity which binds together both the bishops and the multitude of the faithful*¹⁴¹, must fulfill his office at the service of this unity, and thereby accomplish the salvific mission of the Church³³⁸. Let us consider the case where the Pope alone exercises his supreme and plenary power, *seorsim* (NEP 3), without referring directly to the College. This is the ordinary way in which the government of the Church is exercised, since the other mode (collegiate) is comparatively infrequent, as we shall see in the following paragraphs. As *Lumen Gentium* n. 22 states, the Pope may at any time (*semper, omni tempore*) exercise his power freely (*libere, ad placitum*).

This freedom of the Supreme Pontiff, which can in no way be conditioned

334 PAUL VI, *Allocation on the occasion of the promulgation of the Constitution on the Church*, 21 November 1964, in *Catholic Documentation* 1437 (1964), pp. 1540 & seq.

335 *Relatio circa caput III*, in *Conc. Vit. II Syn. p.* 2071.

336 Cf. LG 22 § 2: "Eadem potestas collegialis una cum Papa exerceri potest ab Episcopis in orbe terrarum degentibus, dummodo Caput Collegii eos ad actionem collegialem vocet, vel saltem Episcoporum dispersorum unitam actionem approbet vel libere recipiat, ira ut verus actus collegialis efficiatur.

337 Constitution *Pastor aeternus* (DS 3051).

338 Cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Reflections on the theme "The Primacy of the Successor of Peter in the Mystery of the Church"*, in *La Documentation Catholique* 2193 (1998), pp. 1016 & seq.

by any pressure from the episcopate, is an element emerges clearly from the texts of Vatican II His prerogatives remain unchanged, so that his personal power is not diminished in any way, even if the action he decides to pursue is collegial in nature.

To be convinced of this, it suffices to read the text of the Constitution *Lumen Gentium*, n. 22: *The Roman Pontiff has over the Church (...) a plenary, supreme and universal power which he can always exercise freely.*

In the *Nota explicativa previa*, it is well specified: *As Supreme Pastor of the Church, the Supreme Pontiff can exercise his power at will at any time, as required by his very office*³³⁹.

This power had already been defined at Vatican I³⁴⁰ and we find a reaffirmation of its plenitude over the entire Episcopal Body in Leo XIII's encyclical *Saris Cognitum* of June 29, 1896³⁴¹.

Bishop Philips rightly points out that if the Pope acts "in particular", *seorsim*, or "personally", *modo personali*, in relation to the Episcopal Body, this does not mean "in isolation", *separatim*, since the Supreme Pastor is always in the Church and cannot be conceived of without a relationship with the Episcopal Body³⁴². The Pope, who is the head of the College, can never be separated from this College, even when he acts in a personal way. It is for this reason that, insofar as he deems it useful, he does not fail to take cognizance of the thoughts of his brothers in the episcopate, and sometimes consults them directly, when more serious decisions are involved. It is well established, however, that this consultation is not a constitutional requirement or a juridical obligation, but may be suggested by reasons of prudence of which the Pope is

339 *NEP4*. It is also recalled in the *CIC* (1983), canon 331: "Ecclesiae Romanae Episcopus, vi muneris sui suprema, immédiate, et universali in Ecclesia gaudet ordinaria potestate quam **semper libere exercere valet**."

340 "Si quis itaque dixerit, Romanum Pontificem habere tantum modo officium inspectionis vel directionis, non autem plenam et supremam potestatem jurisdictionis in universam Ecclesiam, non solum in rebus, quae ad fidem et mores, sed etiam in iis, quae ad disciplinam et regimen Ecclesiae per totum orbem diffusae pertinent; aut eum habere tantum potiores partes, non vero totam plenitudinem huius supremae potestatis; aut hanc eius potestatem non esse ordinariam et immediatam sive in omnes ac singulas ecclesias sive in omnes et singulos pastores et fideles, anathema sit" (*DS* 3064)

341 "Illud vere abhorret a veritate et aperte repugnat constitutione divini, jurisdictioni Romanorum Pontificum episcopos subesse **singulos** ius esse, **universos** ius non esse? Haec enim omnis est causa ratioque fundamenti, ut unitatem stabilitatemque toti potius aedificio quam partibus eius singulis tueatur (...).

"Hanc vero, de qua dicimus, **in ipsum episcoporum collegium potestatem** (...) agnoscere ac testari nullo tempore Ecclesia destitit (...).

"Sane claves regni caelorum uni creditas Petro, item ligandi solvendique potestatem Apostolis una cum Petro collatam Sacrae Litterae testantur; at vero summam potestatem sine Petro et contra Petro unde Apostoli acceperint, nusquam est testatum (...)" (*ISS* 28f [1895/1896], pp. 709-757).

342 G. P.H.H.P.S., *op. cit.* p. 293. Cf. also B. GHERARDINI, *La Chiesa, Mistero e Servizio*, terza edizione, Biblioteca Scienze Religiose, Roma, 1994, p. 274, footnote 33.

the sole judge, for the good of the Church. In fact, when the Pope acts or speaks *seorsim*, without referring directly to the episcopate, he does so, however, by the nature of his office, with reference to the judgment of the entire episcopate, considered both in its diachronic dimension (i.e., in relation to all the Tradition of the Church and the pastors of all times) and in its synchronic dimension (i.e., in union with the entire Catholic episcopate today). This unity of the Supreme Pontiff with the College of Bishops is but a corollary of the one and indivisible character of the episcopate, and has its source in the sacramentality of the episcopate, as we have seen in paragraph VII.

IX - 2. 2. 2 Action by the College

The College of Bishops, united to its head, can exercise supreme and plenary power, as for example in the Ecumenical Councils, or in some other extra-conciliar way. This exercise of supreme power is not permanent, even though the College exists in a permanent manner.

- The existence of the College is permanent, the *Nota explicativa prævia* clearly states *Collegium semper existât* (the College always exists)³⁴³. During the conciliar debates, many of the *Minority* Fathers wanted to conceive of the existence of the College only at those times when the Pope would call upon it to act collegially. In response to the many amendments proposed in this sense, the Doctrinal Commission stated on three occasions that it was not possible to alter the text in a way that would deny the College a permanent existence³⁴⁴.

- The action of the College is not permanent. The College does not act in a strictly collegial way permanently, but only at intervals, as *the Nota explicativa prævia* states: *The College, though it always exists, does not, however, act permanently by strictly collegial action, as is evident from the Tradition of the Church. In other words, it is not always in "full exercise",*

343 NEP 4.

344 To *modum* 67, which explicitly requested that the expression *Collegium... auctoritatem non habet* be replaced by *Collegium... non est*, the Commission replied: "Hæc mutatio *contradicit* textui, in quo supponitur quod *agere sequitur esse*, et non e converso. Ex quo tamen non sequitur *Collegium semper motu proprio ad exercitium transire posse*. Hoc enim facere non potest nisi "in hierarchica communione", id est *secundum normas* a suprema auctoritate approbatas, ut postea explicite dicitur, in fine numeri 22. Neque sequitur *collegium semper esse "in actu pleno"*. Cf. *Nota explicativa prævia* sub n. 4" (AS III, vol. VIII, pp. 69-70).

In *modum* 77 the Doctrinal Commission recalls that: "Textus clare affirmat corpus apostolicum continuo in corpore episcopali perseverare, etiam corpus illud, ut in responso ad *modum* 67 dictum est, non semper, **vel immo raris intervallis**, stricte collegialiter agat" (IS III, vol. VIII, p. 71).

Finally, in *modum* 106, the Doctrinal Commission reaffirms: "Collegium Episcoporum una cum Capite suo supremam potestatem habet, etiam quando eam *actu* non exercet" (AS III, vol. VIII, p. 78).

rather it acts in a strictly collegial only at intervals³⁴⁵. It is a fact that in the history of the Church, strictly collegial acts have been rather rare. As Bishop Philips says, apart from the Ecumenical Councils, it would be difficult to list a series of. Unlike the Supreme Pontiff, who ordinarily governs the Church by assuming the fullness of his office relatively often through acts that engage his personal authority, the College acts intermittently, relatively exceptionally, when the Pope calls it to collegial action, which obviously requires a minimum of adequate structures and favorable conditions for organizing the consultation and making the final decision

- The consent of the Roman Pontiff is necessary for an action to be collegial. In fact, the College can only exercise supreme and plenary power over the whole Church *non nisi consentiente Romano Pontifice* (only with the consent of the Roman Pontiff), as the Constitution *Lumen Gentium* states³⁴⁶. The *Nota explicativa pravia* explains the use of this locution, which replaced the expression originally intended: *non nisi dependenter a Romano Pontifice* (only in dependence on the Roman Pontiff)³⁴⁷. Indeed, the required dependence could have been conceived with regard to an external power, whereas the Pope is in the College. The Pope's consent, which is a valuable application of the concept of communion, implies his own action, even if it consists only in tacit approval, as has been the case in several Ecumenical Councils. The Code of Canon Law, faithful to the teaching LG 22, § 2, reaffirms the necessity of confirmation and promulgation by the Roman Pontiff of the decrees of both the Ecumenical Councils and the College of Bishops acting collegially in another form³⁴⁸.

IX-2.2.3. Determination of the mode of exercise of collegial power

The determination of the manner in which this power is to be exercised is a matter for the judgment of the Supreme Pontiff, for it is by decision of the Pope that collegial power takes shape and is exercised: *Collegial power may be exercised, in union with the Pope, by the Bishops residing on the face of the earth, provided that the Head of the College calls them to act collegially, or at least gives to this common action of the scattered Bishops his approval or free acceptance so as to render it a collegial act*³⁴⁹. According to the *Nota explicativa pravia*, followed by the 1983 Code, it is the judgment of the Supreme Pontiff to decide, according to the needs of the Church, the manner

345 NEP 4.

346 LG 22, § 2.

347 "Dicitur autem "*consentiente Capite*" ne cogitetur de *dependentia* velut ab aliquo *extraneo*; terminus "*consentiens*" evocat e contra *communione* inter Caput et membra, et implicat necessitatem *actus* qui Capiti proprie competit. Res affirmatur explicitè in n. 22, § 2 et explicatur *ibid.* in fine... : unde evidens est quod *norma* a suprema Auctoritate approbatae semper observari debent" (NEP 4).

348 Cf. CIC (1983) can. 341.

349 LG 22, § 2.

in which his office of government be exercised, thus acting according to his own judgment³⁵⁰. As Archbishop Philips says, *the invitation from the Pope is normal for a truly collegial act; his approval or at least acceptance is indispensable*³⁵¹. The initiative to set in motion the collegial exercise of supreme power ordinarily belongs to the Pope³⁵². Without excluding the possibility that the common action may be suggested or undertaken by the other members of the College, it will not have a strictly collegial value without the consent of the Supreme Pontiff

IX - 2, 2. 4. The modalities of the collegial exercise of supreme power

The supreme power enjoyed by the College of Bishops is exercised in two different ways, either in the form of the Ecumenical Council the extra-conciliar form

- Exercise according to the modality of the Ecumenical Council

The College of Bishops, says the Constitution *Lumen Gentium*, exercises the supreme power *solemni modo* (solemnly) in the Ecumenical Council³⁵³. The conciliar text avoided saying that the Ecumenical Council is an extraordinary act of the College of Bishops use of the expression *solemni modo* was considered preferable in order not to give the impression that the action of the College outside the Council could be an ordinary collegial act³⁵⁴. The Pope exercises the direction of the Ecumenical Council either in a minimal form, i.e., by merely receiving the acts of the Council, or in a normal form,

350 "Ad iudicium Summi Pontificis, cui cura totius gregis Christi commissa est, spectat, secundum necessitates Ecclesiae decursu temporum variantes, determinare modum quo haec cura actu conveniat, sive modo personali, sive modo collegiali. Romanus Pontifex ad collegiale exercitium ordinandum, promovendum, approbandum, **intuitu boni Ecclesiae, secundum propriam discretionem procedit**" (*NEP* 3).

Ipsi (Romano Pontifici) ius tamen est, juxta Ecclesiae necessitates, determinare modum, sive personalem sive collegialem, huius muneris (Supremi Ecclesiae Pastoris) exercendi" (*CIC* [1983], can. 333, § 2).

351 G. PHILIPS, *op. cit.* p. 303.

352 cannot be denied that historically a number of Ecumenical Councils, whose convocation and deliberations took place without the participation of the Pope, became collegial acts by virtue of the subsequent approval of the Supreme Pontiff Bishop Philips (*op. cit.*, p. 303) also envisages situations of exception, in which the initiative of the collegial act would be on the side of the episcopate (imprisonment of the Pope, impossibility for him to exercise his office) should be noted that *the Nota explicativa praevia (NEP 3)*, by using the terms *ordinandum, proutovanduni, approbandum*, seems a little more restrictive than the text quoted from *LG 22 § 2*. In fact, this is a clarification, so as not to give the impression that all freedom is left to the bishops to initiate a collegial act.

353 "Suprema in universam Ecclesiam potestas, qua istud Collegium pollet, solemni modo in Concilio (Ecumenico) exercetur" (*LG 22 § 2*). The 1983 Code repeats: "Potestatem in universam Ecclesiam Collegium Episcoporum solemni modo exercet in Concilio (Ecumenico)" (*CIC* [1983], can. 337, § 1).

354 See G. PHILIPS, *op. cit.*, pp. 301-302.

i.e., by convoking, presiding over, and confirming the Council³⁵⁵.

- Exercise according to an extra-conciliar modality

The Constitution *Lumen Gentium* in n. 22 is content to say that there can be an extra-conciliar exercise of the supreme and plenary power of the College of Bishops³⁵⁶. It does not say that there has been such an exercise in the past, nor does it say what kind or nature such acts are. Some authors maintain that such acts have already existed in history, but this does not seem to be absolutely proven³⁵⁷. These acts require by themselves the approval of the Pope, either in the minimal form, i.e. free reception, or in the plenary form, i.e. convocation and approval³⁵⁸.

The Council's consideration of the possibility of an act of supreme power over the universal Church, which is not merely a conciliar act, constitutes a

355 Cf. *LG* 22 § 2; *CIC* (1983), can. 338 and 341, § 1.

356 "Eadem potestas collegialis una cum Papa exerceri potest ab Episcopis in orbem terrarum degentibus (...)" (*LG* 22, § 2).

The 1983 Code also affirms: "Eandem potestatem exercet **per unitam Episcoporum in mundo dispersorum actionem**, quae uti talis a Romano Pontifice sit indicta aut libere recepta, ita ut verus actus collegialis efficiatur" (*CIC* [1983], can. 337, § 2).

357 Thus, according to M. Midali, historical cases of extra-conciliar exercises of supreme power have already been encountered: "In a *historical view* of pontifical consent, it has been configured in different forms and manners: there has been the case of an **explicit invitation** from the Pope to the world's bishops, as happened for the definition of a dogma; at other times, the intervention of the Holy Father in the definition of the Immaculate Conception; and at other times, it has been the case of a more general invitation from the Pope to the world's bishops, as happened for the definition of a dogma. There was the case of an explicit invitation from the Pope to the world's bishops, for example, for the definition of a dogma, as happened for the definition of the Immaculate Conception and the Ascension; on other occasions the intervention of the Vatican consisted in an **approval** of the work of the episcopal college; on other occasions the pontifical consent was manifested in a simple **acceptance** of what the episcopal council had deliberated on its own initiative. Theoretically, it is possible to think of other forms in which the intervention of the Vescovo di Roma could manifest itself (...)" (M. MIDALI, *Commento al capitolo III della Lumen Gentium: La costituzione dogmatica sulla Chiesa*, "Collana Magistero conciliare" 1, Edizione Elle Di Ci, Torino-Leumann, 1965, pp. 657-658) M. Schmaus does not express himself differently: "Wenn die Päpste (Pius IX, Pius XII) vor jeweiligen Glaubensdefinitionen die Bischöfe gefragt haben, so kann die Antwort aller Bischöfe als ein kollegialer Akt verstanden werden" (M. SCHMAUS, *Der Glaube der Kirche, Handbuch katholischer Dogmatik*, Band 2, Hueber Verlag, München, 1970, p. 223).

358 Thus the 1983 Code, after speaking of the decrees of the Ecumenical Councils, taking up *Lumen Gentium* 22 § 2, continues, with direct reference to extra-conciliar collegial acts: "Eadem confirmatione et promulgatione, vim obligandi ut habeant, egent decretaque ferat Collegium Episcoporum, cum actionem proprie collegialem ponit iuxta aliam a Romano Pontifice inductum vel libere receptum modum" (*CIC* [1983], can. 341, § 2).

The *Motu proprio Apostolos suos*, will reaffirm this doctrine of the dual mode of exercise of the supreme collegial power of the Episcopal Body over the universal Church: "The Body of Bishops can only exercise collegially the supreme power which it possesses over the whole Church, either solemnly when the Bishops are gathered in the Ecumenical Council, **or when they are dispersed throughout the world**, as long as the Roman Pontiff calls them to a collegial act or at least freely approves or accepts their common action" (*Apostolos suos* 9).

completely new point in this matter. This affirmation, which seems to us today to be inwith the perfect logic of things, was not without its share of debate in the conciliar assemblyshould be noted that the only possibility of collegial action reduced to the case of the Ecumenical Councils, as was affirmed in the preparatory scheme, was widely criticized by certain Council FathersThus, for example, Archbishop Vander Bürgt of Pontianak:

"In Chapter VI, on the other hand, it is said that *the College of Bishops, in union with its Head, the Roman Pontiff, and never apart from this Head, is the subject of plenary and supreme power over the universal Church* (art. 16, p. 24, 22f.). On the other hand, however, it is said that this *ordinary power can be exercised only and exclusively in the - Ecumenical Council, that is, inextraordinary way* Outside the Council it would have no place. This power would therefore be absolutely hidden for centuries, and would only be awakened on the occasion of Councils We are willing to concede that this power is exercised in an extraordinary and solemn manner at Councils. But it would be a mistake to say that this power is completely absent during the periods or centuries that separate the Councils"³⁵⁹.

In the intersessional period from 1963 to 1964, some episcopates drew upplans which did not fail to deal with this pointThus the French episcopate:*According to the Catholic faith, the College of all the bishops united to the Successor of Peter possesses the full and supreme power of government over the universal Church. However, this power is exercised collegiallyin different ways, depending on whether the bishops are dispersed or whether they are gathered in an Ecumenical Council in union with the Supreme Pontiff*¹⁰. The German episcopate also presented its text: *Whether assembled in an Ecumenical Council or dispersed, the College of Bishops, united to its Head, "possesses supreme power over the universal Church" and exercises its supreme magisterium in the Church*³⁶⁰. The German episcopate had already pointed out in its criticism of the preparatory scheme *that it is not enough to say that the ordinary power of the College can only be exercised in an extraordinary way. There is a real collegiality even outside the Council and before the explicit will of the Supreme Pontiff*¹².

Some bishops do not conceal their fear of an assertion which, in their opinion, might interfere with the free exercise of thesupreme powerthe Supreme PontiffThus they admitted this possibilitysole condition that the initiative should be left to the Pope alone, so that he would not be forced to approve, almost against his will, acts which were not his own³⁶¹.

³⁵⁹ AS I, vol. IV, p. 591.

³⁶⁰ Conc. VaL IL Syn., pp. 739-740.

³⁶¹ Thus Bishop Carli of Segni (AS II, vol. II, p. 540) considers: "Non sufficienti affirmare cum schemate, potestatem collegialem exerceri posse modis etiam diversis a Concilio Œcumenico, nisi simul explicite affirmetur hanc collegialem potestatem legitime ad actum deduci non posse neque debere nisi quando et quomodo Romanus Pontifex in Domino

For the great majority of the Council Fathers, nothing prevents the *potestas suprema* of the College of Bishops from being actualized in extra-conciliar forms. Thus, some even go so far as to advocate forms of exercising this supreme *potestas*, which would be based on the means of social communication³⁶².

Finally, so that the extra-conciliar exercise of the *suprema potestas* does not remain a mere possibility, some bishops ask that at least a concrete form be established, such as the erection of an *Apostolic Council* or a *Synod of Bishops*. Thus Archbishop Van der Hurk of Medan, speaking in the name of the Indonesian Bishops' Conference, asks: *Our wish is that, in addition to the extraordinary form of the Ecumenical Council, a clear and stable form of this collegial power be instituted, for example, a supreme and permanent conference, which would be made up of members appointed by the Bishops' Conferences*³⁶³.

Archbishop Hermaniuk of Winnipeg of the Ukrainians is in favour of the institution of a Synod which would in fact reflect this extra-conciliar collegiality³⁶³.

Likewise, many other bishops, as we shall see in the second part, asked for the institution of a council or senate which would actualize the principle of

censuerit".

382), taking into account the facts of history in which the civil power has used its force and influence to make its point of view prevail at the expense of the freedom of the Church, states: "In genere non video possibilitatem illius *Concilii per epistolas* quæ ibi suggeritur, nisi a Romano Pontifice episcopi explicite per aliquam epistolam invitentur, ut ad aliquam quæstionem ab ipso per epistolam positam respondeant."

Archbishop Calabria of Benevento (/IS II, vol. II, p. 691) is very circumspect about the attribution of *potestas suprema* to the College of Bishops *in orbe terrarum degentium*, and considers that an implicit or explicit approval of the Supreme Pontiff is not sufficient, but that an explicit act is required on his part, which renders obligatory the decision taken by all the bishops

362 Bishop Van Dodewaard, of Haarlem, will express himself in this sense in the name of the Dutch Episcopal Conference (cf. AS II, vol. II, p. 271). Bishop Fernández-Condé of Cordoba is quite explicit (*Conc. Vht. II Syn.*, pp. 744-745): "Suprema illa collegii in universam Ecclesiam potestas exercetur in actu collegiali in quo membra collegii coadunantur sive extraordinario modo, ut est coadunatio physica in Concilio Cæcumenico vel coadunatio *per media socialia communicationis manifestata*, sive ordinario modo a membris episcopis in communionem cum Pontifice Romano per orbem sparsis.

363 AS II, vol. I, pp. 371-373. "Haec potestas plena et universalis super totam Ecclesiam tum totius Collegii Apostolorum cum Petro, tum Petri, capitis collegii, cum Apostolis, *debet* exerceri sub utraque forma in tota vita Ecclesiae, non tantum tempore Concilii (Ecumenici, et non tantum in aliquibus occasionibus extraordinariis (.XAS II, vol. I, p. 371).

"Aliis verbis, potestas ista potest exerceri per ex., quoddam collegium vel potius consilium apostolicum quod repræsenteret totum episcopatum catholicum, sub praesidentia Summi Pontificis, Capitis Collegii episcopalis (...)" (AS II, vol. I, p. 371).

"Consilium hoc apostolicum, repræsens quodammodo totum Collegium episcopale Ecclesiae, ageret sub auctoritate Summi Pontificis, Capitis Collegii, et haberet plenam et universalem potestatem in universam Ecclesiam, servata semper plena et universali potestate Summi Pontificis, Successoris Petri, in totam Ecclesiam Christi" (/IS II, vol. I, p. 373).

collegiality defined by the present Council For Bishop Ghattas of Thebes *it is especially important to establish a "Council" of bishops, I would say a "Senate". Thus the principle of episcopal collegiality will be truly engraved in the structure of the Church*¹¹¹.

Whatever these proposals may be, these conferences, restricted councils of bishops, or synods of limited participation cannot strictly be identified with the College of Bishops, which by definition includes all the bishops who are part of the Episcopal Body.

IX - 2. 3, *Are there one or two subjects of the supreme power?*

In purely human societies, it is difficult to imagine the coexistence of two plenary authorities. Either one of the authorities exercises the fullness of its power and asks the other to submit, or it renounces exercising the fullness in favour of the second, and then it is no longer sovereign. It is not possible to conceive of a duplicate supreme authority.

In the case of the government of the Church, it must be admitted that since both the Pope and the College of Bishops *cum Capite suo* are permanent subjects of the supreme power, the relationship between the two subjects must be of a very special kind. As the *Nota explicativa prœvia* n. 3 rightly says: *the distinction is not between the Roman Pontiff and the bishops taken together, but between the Roman Pontiff alone and the Roman Pontiff together with the bishops.* From the special place which the Roman Pontiff has in the College of Bishops, of which he is always the Head, we deduce that the subjects of the supreme power of which we have spoken are not really distinct. Either we must admit a single subject, which would then be the Roman Pontiff or the College of Bishops united to its Head, or we must recognize the existence of a double subject or of two subjects inadequately distinct, as conceived by Father Kleutgen, as we have seen in Chapter I.

The Second Vatican Council did not want to settle the debate, and the controversy remains open. The rapporteur of the *Relatio super Caput III*, Bishop Parente, clearly states: *It is not a question of deciding the question of the uniqueness or plurality of the subject; in any case, even if two inadequately distinct subjects are envisaged, the "potestas" * remains unique*¹⁷³.

In its response to the modi requested by some of the Council Fathers, the Theological Commission officially replied that it did not wish to enter into the disputed question of the uniqueness or duality of subjects. Thus, in its response to Modum 80, it repeats: *The Commission did not wish to enter into the disputed question of the single or the two inadequately distinct subjects of the supreme "potestas". We will therefore stick to the text which, after a long discussion, has received the presene form*TM. Modum 174, in response to the request for clarification relation to the uniqueness or duality of the subjects of infallibility, reaffirms that the Commission does not intend to rule on the question *The particule 'quoque' (aussi) does not direct the question about the uniqueness or duality of the subject, as already stated in the Response to Modum 80*^{TMQ}.

Theologians, scrutinizing the text of the Constitution *Lumen Gentium* and the *Nota explicativa prœvia*, analyzing the content of the debates, try to find arguments to defend their points of view on this subject. We have already seen in Chapter III what their positions were before the Council.

After the Council we find this threefold division as to the uniqueness or duality of the subject of supreme power over the universal Church, which we present here:

The proponents of a single subject, the Roman Pontiff, consider the collegial and the personal exercise of supreme authority as two forms of expression of the power of a single subject, the Pope³⁶⁴. Considering that according to the teaching of *Lumen Gentium* the determination of the mode of exercising supreme power belongs to the Pope³⁶⁵, the proponents of this opinion finally reduce the exercise of collegial power to that of the Supreme Pontiff. The latter communicates to the bishops both their personal jurisdiction over a particular diocese and their jurisdiction over the universal Church.

On the other hand, the advocates of a single subject, the College of Bishops *cum Capite suo*, consider the exercise of the supreme power of jurisdiction to be the result of an act which can always be attributed to the College, since according to them the Roman Pontiff, even when he seems to act alone, is never separated from the Church and always acts as the head of the College³⁶⁶. noted that the preparatory scheme we mentioned at the end of

364 3-61, U. LATTANZI, *De nexu agnoscendo inter episcopale consecrationem et sacra Ecclesia munera*, in *Divinitas* 9 (1965), pp. 393- 414, and R. DULAC, *La Collégialité épiscopale au deuxième conseil oûlatican*, Les Éditions du Cèdre, Paris, 1979.

It is interesting to note that, even though he maintains that all *sacra potestas* comes from episcopal ordination, B. Gherardini (in B. GHERARDINI, *la Chiesa, Mistero e Servizio*, terza edizione, Biblioteca delle Scienze religiose, Roma, 1994, pp. 274-275), opines strongly in favour of a single subject and summarizes his position as follows:

"The service to the unity of the faith and of the people of God can be resumed only by asupreme authority, which assumes in itself *no power in the Church*,

"This entails a single powerful and supreme power for the whole Church, a single and indivisible power, the unique and powerful and supreme soggetto of which is the Roman Pontiff in his capacity as a *public person*.

"As a *public figure*, the Pope always sustains the representation of the supreme ecclesiastical master and of the College of Vestry in which he is concretely active

"Ancora come *persona pubblica* il Papa emerge dal Collegio dei Vescovi e dagli atti collegiali per esserne di fatto e di drino il principio formale".

365 See *NEP4*.

366 We have seen in chapter III some proponents of this thesis in the period before the Council, among whom: K. Rahner, *Lo jus divinum* l'Episcopato, article first published in 1961, in K. RAHNER-J. RAHNER, *Lo jus divinum dell'Episcopato*, article first published in 1961, in K. RAHNER-J. RATZINGER, *Episcopatoe Primato*, Brescia, 1966; Y. CONGAR, Preface to the work: *L'Épiscopat catholique, Collégialité et Primauté dans les trois premiers siècles de l'Église* by Jean COLSON, Coll. *Unam Sanctam* 43, Les Éditions du Cerf, 1963. The same Father Congar explains his position in a later work: Y. GONGAR, *Sinodo, primato e collegialità*, in *La Collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, pp. 52-57.

the previous chapter stated: *The College of Bishops (...) together with its Head, the Roman Pontiff, and never without his Head, is recognized as the sole subject of plenary and supreme power over the universal Church*¹³⁴. Such a statement supported the existence of a unique and indivisible subject, namely the College of Bishops united to its Head, which was not without risk, since the schema then added that the power of this College could only be exercised in an exceptional manner, *non nisi modo extraordinario*¹³⁵, at the free initiative of the Pope. The existence of a *single collegial subject* of supreme power thus underlined, and at the same time the exceptional character of the exercise of this power affirmed repugnant to common sense and implied in itself a contradiction, in fact, the history of the Church proves that the exercise of the supreme power of jurisdiction was not purely occasional, but frequent and even almost continuous. It is understandable that the definitive text of *Lumen Gentium* should have departed from this type of formulation.

Finally, those who argue for a dual subject or two inadequately distinct subjects rely on an interpretation of numbers 22 and 25 of *Lumen Gentium*, in which it is stated that *the Order of Bishops (...) also constitutes (quoque) the subject of a supreme and plenary power over the whole Church and the infallibility promised to the Church also resides (quoque) in the Body of Bishops*. The addition of this adverb "quoque" is conceivable, according to them, only if one admits the existence of a double subject or of two subjects inadequately distinct. The *Nota explicativa praevia*, by affirming that the distinction is not between the Roman Pontiff and the bishops taken collectively, but between the Roman Pontiff alone and the Roman Pontiff together with the other bishops, would strongly suggest the conception of a double subject³⁶⁷.

In the remainder of this study, we shall return to consequences which flow from these three different opinions regarding the role of the Synod of Bishops

To these must be added theologians who spoke in the post-council period: C. BUTLER, *The theology of Vatican II*, Danon, London, 1967, pp. 102 ff. BUTLER, *The theology of Vatican II*, Danon, London, 1967, pp. 102 ff.; G. DEJAI-VE, *La Collégialité épiscopale dans la tradition latine*, in *L'Église de Vatican II*, Tome III, Coll. *Unam Sanctam* 51c, Les Éditions du Cerf, 1966, pp. 885-889; E. SCHILLEBEECKX, *L'Église du Christ et l'homme d'aujourd'hui selon Vatican II*, Édition Mappus, Le Puy, 1965, pp. 99-100; O. SEMMELROTH, *Die Lehre von der kollegialen Hirnenwalt über die Gesamtkirche unter Berücksichtigung der angefügten Erklärungen*, in *Scholastik* 40 (1965), pp. 165-179.

³⁶⁷ There are many proponents of this view. Among the abundant literature, the following books or articles may be cited as references: A. ANTON, *Pri-mado y colegialidad*, Biblioteca de Autores Cristianos, Madrid, 1970; U. BETTI, *La dottrina sull'episcopato nel Vaticano II*, Città Nuova, Roma, 1968, p. 373; C. BOYER, *Questions actuelles de théologie*, Officium Libri Catholici, Roma, 1974, p. 8; M. BROWNE, *Il Collegio Episcopale, soggetto di potestà suprema di governo della Chiesa Cattolica*, in *Divinitas* 9 (1965), pp. 380-381; C. COLOMBO, *Il Collegio Episcopale e il Primato del Romano Pontefice*, in *La Scuola Cattolica* 93 (1965), pp. 35-56; G. F. GHIRLANDA, *Hierarchia Communio*, Università Gegeriana Editrice, Roma, 1980, p. 409; J. SARAIVA MARTINS, *De Episcoporum Collegialitate in II Vaticana Synodo*, in *Claretianum* 9 (1969), pp. 92-93.

and its participation in truly collegial acts Suffice it to say for the moment that, if the subject of supreme power is unique and identified with the person of the Pope, the Synod of Bishops would exercise only a secondary role which would merely facilitate and prepare the exercise of primatial power by the Pope. On the other hand, if the sole subject were the College of Bishops, i.e., if every act of the Pope had a collegial root, there would be no ontological difference between an act of the College and an act of the Roman Pontiff. Moreover, in this case the distinction between the expression of a consultative power and that of a deliberative power, both of which can be exercised by the Synod, seems to become blurred, since any decision finally retained and ratified by the Supreme Pontiff would be an act of the College.

X - What is MEANT BY COLLEGIALITY

X - Status of the issue; difficulties

It should be noted that the term *collegiality* was not used in the conciliar texts. It does not appear either in the text of *Lumen Gentium* or in that of *Christus Dominus*. One recalls the difficulties encountered in introducing the word *collegiality*, and the precautions taken either in the text of the constitution *Lumen Gentium* or in the *Nota explicativa pravia*, to prevent any misinterpretation because of the juridical and egalitarian consonance of this word.

In the article "sinodalità" in the *Nuovo Dizionario di Teologia* (a cura di G. Barbaglio e S. Dianich), written by E. Corecco, the author recognizes, not without foundation, the ambiguity that results theologically from absence of the clearly defined concept of *collegiality*TM.

During the Second Vatican Council, certain Fathers did not fail to use this word in the debates. Cardinal Joseph Lefebvre, Archbishop of Bourges, even called for its definition and its introduction into the official text³⁶⁸. He endeavoured to elaborate a concept of *collegiality* different from the usual notion that this word had on the level of law or power, in order to give it an analogical value³⁶⁹. It is true that the formal reason for this word usually

368 "Cum de "collegialitate" loquimur, sive agitur de collegialitate quae sub auctoritate Summi Pontificis exercetur pro universo mundo, sive de illa quae propria est episcopis in conferentia episcopali alicuius nationis, videtur adesse aliqua difficultas (..)

Difficultas, quae non parvipendenda est, ex eo forsitan oritur, quod iam ab initio discussionis omisimus determinare quid realiter pro nobis significaret vocabulum "collegialitas". Ex defectu huius necessariae definitionis remanemus in aequivoco; et quia eodem vocabulo utamur dum de re diversa loquimur, impossibile est ad unitatem mentis pervenire. V, pp. 231-232).

369 "Verbum "collegialitas" etenim in casu nostro nequaquam univocum esse potest. Adhibemus illud ad corpus episcopale, quod revera collegium est, eo sensu quod membris constat quae capiti uniuntur, et una cum eo decisiones in solidum ferre possunt quae universam Ecclesiam obligant. Hoc accidit v. g. in Concilio Oecumenico a Summo Pontifice convocato, qui ei praest et eius decisiones confirmat (G-).

expresses the property by virtue of which the legal person, constituted of a set of individual and equal subjects, is a subject of operation, the last in its order, the only one able to take, within the scope of its competence, the sovereign decisions that concern the society in which it subsists. A board of directors, a court of justice, which are true colleges, verify this formal reason for collegiality.

Applied to the Episcopal Body, the formal reason for collegiality does not correspond to theological reality, since the Catholic Episcopate, as a constituted body and as a moral person, is not an *ultimum subjectum operationum* (an ultimate subject of operations), always in act, with a view to making all the decisions relative to the government of the universal Church, as is person of the Roman Pontiff. The government of the Church is not a government which, by divine right, would be continuously, formally and actually collegial³⁷⁰. On the other hand, no one would dream of denying that there is a divine bond between the bishops, and between the Pope and the Catholic Episcopate, not of power or right, but of responsibility, solicitude, duty, service, mission, in a word, of charity and love³⁷¹. Although the Council did not use the word *collegiality* to describe these realities, being content to say that they signified the nature and collegiality of the episcopal order, the history and later Magisterium of the Church have nevertheless endorsed this term, attributing to it an *analogical* value, thus vindicating Cardinal Lefebvre, whom we have just mentioned³⁷². The first use of this word in an official text goes back to the opening of the Synod, when Paul VI declared: *Remembering that the episcopate the legitimate successor of the Apostles and that these*

"Agitur in casu nostro de *collegialitate* ex origine divina et supernaturali, in qua habitualis conceptus noster collegialitatis transcenditur, et hic in sensu solummodo analogico adhibetur" (*Ibid.* p. 232).

370 It is obvious that this does not fit in well with the thesis we have called *integrally collegial* supported, among others, by K. Rahner, discussed in Chapter III, that supreme power is always collegial.

191. "Quapropter, mea humili sententia, collegialitas episcopalis de qua disceptatur, non potest congruenter definiri simpliciter terminis mere juridicis, ut sunt termini potestatis vel juris. Imprimis definiri debet terminis, qui responsabilitatem, curam, officia, servitium, missionem, et summam caritatem et amorem secum ferunt.

"(...) opto in mea conclusione ut valor analogicus vocabuli "collegialitatis" in lucem clariorem ponatur, et consequenter ut "collegialitas episcopalis" modo quam maxime perspicuo definiatur, secundum suam veram naturam, in unione cum Successore Petri et sub eius auctoritate" (Cardinal Joseph LEFEBVRE, *op. cit.* > pp. 232- 233).

372 Among so many examples, we need only quote Pope John Paul II in his letter *Magnus Dies* to all the Bishops of the Church on Holy Thursday 1979: - Expetamus igitur, Venerabiles ac Dilecti Fratres, oportet hac praesertim die, ut quaecumque Concilium Vaticanum II in nostra conscientia tam mire renovavit, ea maturiorem formam collegialem assequantur - tum qua principium communis opera nostra (quae *collegialitas effectiva* dicitur) tum qua signum fraterni vinculi cordium (quod *collegialitas affectiva* vocatur) - ad Corpus Christi mysticum aedificandum et unitatem universi populi Dei arctiorem reddendam" (JOHN PAUL II, *Lettera a tutti vescovi della Chiesa, Magnus dies*, 9 aprile 1979, in *Insegnamenti di Giovanni-Polo II* [1979/1], Libreria Editrice Vaticana, Roma, p. 834).

constituted a particular group, chosen and willed by Christ, it seemed appropriate to take up the concept and term of collegiality and apply it to the episcopal order³⁷³

Let us first note the essential differences that characterize the notion of collegiality, understood on the civil or political level on the one hand and on the theological level on the other: the relationship between Pope and Bishops, as the *Nota prœvia* states, does not imply any equality of the head in relation to the members, unlike the colleges of civil society, where all the members, including the president or moderator, possess the same powers. This institution of the College of Bishops is part of the structure willed by Jesus Christ for His Church; it is by its nature irreformable, which is not the case with other collegial institutions of purely human origin. The College of Bishops owes its origin and *raison d'être* to the sacramental character of the episcopate, whereas in the civil sphere a college chooses its new members by co-optation. We have here, then, in the use of the word collegiality, a first analogy (collegiality in the juridical sense in the field of civil law, collegiality applied to the reality described in LG 22, when it is a question of the collegial act)

It should also be noted that the use of the term "collegiality" has multiplied in the years following the Council, to the point that some speak of an inflation of this term at all levels of the Church³⁷³, which is why the concept needs further clarification to avoid ambiguities³⁷⁴.

We are called to distinguish, by a second analogy, the concept of collegiality applied to the exercise of a truly collegial act (LG 22b), and the concept of collegiality applied to the relationships and exchanges which exist at all levels between members of the episcopal body.

Thus, for the theologian Pierre Eyt³⁷⁵:

The concept of collegiality can only be a "differentiated concept" in the present theological and canonical usage (...). This raises a delicate problem of terminology which the post-Council period has not yet succeeded in resolving in a satisfactory way. Undoubtedly, as the practice of the

373 Cf. J. B. D'ONORIO, *Le Pape et le gouvernement de l'Église*, Éditions Fleurus- Tardy, Paris, 1992, p. 178.

374 According to H. de Lubac, "if we do not cease today, at all the crossroads of opinion, to appeal to the idea of collegiality, is it certain that it is always well understood? Not by a long shot. It is distorted in many minds because it is conceived according to ready-made models taken from the history of human societies or the ideals of our time. The word college is not to be taken in the sense of Roman or medieval law, popularized by our modern encyclopedias. The college or body or episcopal order is not a group of associates who are all equal and can only act together; nor is it constituted by the actual gathering of its members. It is to be understood, as Vatican II clearly teaches, in the sense that ecclesiastical tradition attaches to it, based on the realities of primitive Christianity" (H. de LUBAC, *Églises particulières. Église universelle, Conférence given at the Centre Saint-Louis de France in Rome, October 28, 1971* (unpublished document).

375 Pierre Eyt, Cardinal Archbishop of Bordeaux and member of the Congregation for the Doctrine of the Faith, died in June 2001

Magisterium proves, there is nothing to prevent other forms of expression of more or less extensive groups of bishops from being designated as - *collegial* should be clear, however, that in this case *collegial* is used in an analogical sense and, if we refer to *Lumen Gentium* n. 22, is theologically improper. When language seeks to achieve real precision, it will have to designate such forms by the expression: *indirectly collegial* or *collegial in the second degree*, etc., in order to distinguish them from the fully collegial actions of *Lumen Gentium* n. 22. There is more here than a problem of vocabulary, for the whole balance of the relationship between the Roman Pontiff and the episcopate would be in question. At the same time, the effort made by the Second Vatican Council to harmonize Primacy and Collegiality would be ruined"³⁷⁶.

In short, the impossibility of a univocal use of the concept of - *collegiality* applied successively to a juridical society on the civil level, to the College of Bishops acting as such³⁷⁷, to the various relationships within the Episcopal Body, leads us to elaborate clarifying distinctions so that we will speak of "collegiality in the strict sense" and "collegiality in the broad sense", of "affective collegiality" and "effective collegiality", of "full collegiality" and partial collegiality

X - 2 "Collegiality in the strict sense" and "collegiality in the broad sense"

"Collegiality in the strict sense":

We have already had occasion to dwell in detail on collegiality in the strict sense, in paragraph IX, when we dealt with the exercise of collegial power over the universal Church.

We will simply point out that this collegiality in the strict sense requires the participation of the whole College of Bishops.

As Pope John Paul II said: *episcopal collegiality, in the proper or strict sense, belongs only to the entire College of Bishops, which, as a theological subject, is indivisible*³⁷⁸.

³⁷⁶ P. EYT, *La Collégialité*, in *Le deuxième concile du Vatican* (1959-1965), edited by the École française de Rome, Rome, 1989, pp. 547-548.

³⁷⁷ Thus, according to J. B. D'ONORIO: "Since it is not understood in strictly juridical sense, collegiality appears as a moral and spiritual responsibility for the common good of the universal Church. The Constitution *Lumen Gentium* is unmistakably clear on this point: *the College or Body of Bishops has no authority unless it is understood as united to the Roman Pontiff, the Successor of Peter, as its head, and without prejudice to the power of this primate which extends to all, pastors and faithful, the Roman Pontiff has over the Church, in virtue of his office as Vicar of Christ and Pastor of the whole Church, a plenary, supreme and universal power which he can always exercise freely* (LG 22)" (J. B. D'ONORIO, *op. cit.*, p. 165).

³⁷⁸ JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), pp. 104-105. This quotation is taken up again in

The International Theological Commission, in its turn, has insisted that episcopal collegiality in the strict sense is universal and extends to the whole Episcopal Body: *The texts of Vatican II do not allow that the episcopal conferences and their continental groupings can, strictly speaking, be called 'collegial' (...)*episcopal collegiality belongs to the very structure of the Church received from Christ (*juredivino*). On the other hand, institutions such as episcopal conferences (and their continental groupings) belong to the concrete organization or figure of the Church (*jure ecclesiastico*). The concept of collegiality applied to them remains questionable: *the use of the terms college, collegiality, collegiality, can only have an analogical meaning, theologically improper*³⁷⁹.

"Collegiality in the broadest sense":

It is with reference to and in opposition to "collegiality in the strict sense" that it is appropriate to define what is meant by "collegiality in the broad sense"³⁸⁰. The exercise or non-exercise of supreme power will be the criterion for determining whether a certain participation of the Bishops in the pastoral care of the Church is collegial in the strict sense, or in the broad sense.

In fact, the Second Vatican Council did not only speak of episcopal collegiality understood in a strict sense, but it also gave ample space in its texts to that permanent moral co-responsibility which unites the members of the College among themselves. Thus the Constitution *Lumen Gentium* speaks of this collegial solicitude which unites the bishops and the Supreme Pontiff for the good of the Church:

The eye cups, each for his part, placed at the head of each particular Church, exercise their pastoral authority over the portion of the People of God entrusted to them and not over the other Churches or over the universal Church. But as a member of the College of Bishops and the legitimate successor of the

Each one of them is bound to that solicitude towards the united Church;

Apostolos suas, n. 12b.

This idea is found in another speech by John Paul II: "**But collegiality, in the strict sense**, is more than your collaboration among yourselves. **It unites all the bishops around the Successor of Peter** in order to teach the doctrine, the faith, to implement common discipline, and to meet the needs and progress of the universal Church. It flows from that of the Twelve united around Peter, it continues it and is exercised in a similar manner" (JOHN PAUL II, *Address to the Swiss Bishops in Einsiedeln*, 15 June 1984, in *Catholic Documentation* 1878 [1984], p. 734).

³⁷⁹ CTI, *Thèmes choisis d'ecclésiologie*, October 8, 1985, in *La Documentation Catholique* 1909 (1986), p. 65. One may find the doctrinal judgement Commission a bit sharp; let us recall that the term *collegiality* has an analogical value, as we have seen in the previous paragraph.

³⁸⁰ Thus G. P. Milano speaks of collegial action in the broad sense: "Si dà, quindi un *actio late colleiales* che viene riferita, negativamente, a quegli interventi di natura collegiale non comportanti esercizio della potestà suprema" (G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milan 1985, p. 219).

by the institution of Christ, which is eminently profitable for the universal Church, even if it is not exercised by an act of jurisdiction"³⁸¹ .

If, therefore, the Bishops, taken individually, do not govern the whole Church, as successors of the Apostles, they are bound by institution and by the precept of Christ to promote with solicitude the good of the whole Church. This collegial solicitude³⁸² and permanent concerns both faith and discipline and the spread of the Gospel; it was singularly emphasized in the conciliar decree *Christus Dominus*, concerning the *role of the bishops with regard to the universal Church*, which mentions that *the bishops should know themselves to be united among themselves and to show concern for all the Churches* and that *each of them is responsible for the Church together with the other bishops*TM. The advantages of this provision are valuable in terms of promoting and imitating the faith, keeping common discipline intact, awakening love for the whole mystical body of Christ, especially for its most tried members, and developing missionary activity

The encyclical *Fidei donum* of Pius XII had already paved the way by recalling that :

While it is true that each Bishop is the shepherd of the part of the flock entrusted to him, he is, however, as the successor of the Apostles, by virtue of divine institution and precept, together with the other Bishops, co-responsible for the apostolic office of the Church, according to these words of Christ to his Apostles *As my Father has sent me, so I send you (Jo. 20:21)*. This mission, which embraces all peoples... until the end of the world, did not end when the Apostles departed from this world; on the contrary, it continues in the bishops who remain in communion with the Vicar of Jesus Christ."³⁸³ .

The conciliar decree *Ad Gentes* pleads in the same sense, in favour of the collaboration of the whole Episcopal Body in the missionary task³⁸⁴. This form of collegiality, which involves the participation of the Episcopal Body in the general mission of the Church, is an example of collegiality in the broad sense, where the reality lived is not a reality of the canonical order, which would concern the exercise of supreme power over the universal Church. Most of the time, the collegial solicitude of the bishops for the common good of the universal Church is not expressed in the form of an act of jurisdiction, but is

381 LG 23.

382 It is interesting to refer to the book by S. PETTINATO, *Sollicitudo pro universe Ecclesia*, Milan, 1983, if one wishes to have an idea of the formation and revolution of the concept of *sollicitudo* from the encyclical *Fidei donum* of Pius XII, to the constitution *Lumen Gentium*.

383 PIUS XII, Encyclical *Fidei Donum*, 21 April 1957, in AAS 49 (1957), pp. 230 ff.

384 This (missionary) task to be carried out by the order of the bishops, at whose head is the Successor of Peter, with the prayer and collaboration of the whole Church (The task of proclaiming the Gospel throughout the world is, above all, the business of the Episcopal Body" (*Ad Gentes* 6 and 9).

limited to wishes or vows of guidance, the practical details of which can be implemented by the Pope or the bishops at the appropriate time. Each bishop has jurisdiction only over his own diocese and not over the whole Church (LG 23, §2), but according to St. Paul he keeps the *daily concern of all the Churches*³⁸⁵.

However, ecclesial bodies endowed with well-defined powers, such as episcopal synods, provincial councils and episcopal conferences, can become not only privileged places where bonds of collegial communion are established and strengthened, but also places where decisions are taken which have authoritative value, even if they are not the fruit of the exercise of supreme power.

As the *Motu proprio Apostolos suos* states, *the joint exercise of certain acts of the episcopal ministry serves to implement the solicitude of each bishop for the whole Church*³⁸⁶ *), which indicates the role of certain ecclesiastical bodies that have appeared in the history of the Church and their participation in this collegiality in the broad sense. We are thinking of the provincial councils, the Synods of the Eastern Churches, the general assemblies of the clergy in France, etc.³⁸⁷.

Episcopal conferences are especially involved in this aspect of collegiality. In fact, according to their purpose, the role of the Episcopal Conferences is to contribute to the common good of the particular Churches of a territory, thanks to the collaboration of the sacred pastors to whom the task has been entrusted³⁸⁸.

It is good to emphasize, however, that if each Bishop carefully carries out the pastoral responsibility for his particular Church, the universal Church will feel the happy effect. The Bishop's solicitude for the universal Church begins first and foremost and is mainly expressed in the care with which he governs his own Church, which is *part of the Church of Christ*³⁸⁹. The Constitution *Lumen Gentium* expresses itself in this sense: *It is well established that by*

385 II Cor. 11:28.

386 *Apostolos suos* 13.

387 It should be noted that the joint exercise of the episcopal ministry by a group of bishops can be distinguished from collegial exercise in that it represents more of a practical arrangement or a formal arrangement than a collective participation informed by *affectus collegiatis* in the pastoral care of their respective Churches or of the universal Church.

388 The *Motu proprio Apostolos suos* recalls: "In the episcopal conference, the bishops jointly exercise their episcopal ministry in favour of the faithful in the territory of the conference" (*Apostolos suos* 20).

389 Cf. *CD* 6, § 3. It is important to note in this regard that the letter of the Congregation for the Doctrine of the Faith, *Communio in notio* speaks of the relationship of mutual interiority between the particular Church and the universal Church, which explains the mutual influence that is exercised between the two: "These (particular) Churches as "parts of the one Church of Christ" have with the whole, that is, with the universal Church, a particular relationship of *mutual interiority*, because in each particular Church the one, holy, catholic and apostolic Church of Christ is truly present and active" (CN 9)

*governing their own Church, as a portion of the universal Church, they (the bishops) contribute to the good of the whole Mystical Body, which is also the Body of the Churches*³⁹⁰. This interdependence between the government of the universal Church and the government of the particular Church has its origin in the very constitution of the Church. Thus Cardinal Ratzinger, in his work *Church, Ecumenism and Politics*, underlines the implications of the good government of a particular Church on the whole Church:

"In it, he (the bishop) governs the universal Church not because he is represented in a central body, but because he governs as pastor a particular Church which forms and bears in itself the totality. In it he governs the universal Church, whose health and proper orientation depend not only on the central power, but also on the proper functioning of the individual cells, in themselves and in relation to the totality through the government of the particular Church, and not in any other way, that the bishops **co-rule** the universal Church. To believe that only central representation could give them importance in relation to the totality is to radically misunderstand the nature of the Church. Such a conception is the symptom of a centralism that the Second Vatican Council wanted to eliminate"³⁹¹.

X - 3 *The affectus collegialis* or "affective collegiality" and "effective collegiality"

In order to arrive at a fair assessment of collegiality, it is also necessary to distinguish *Y affectus collegialis* or affective collegiality from effective collegiality.

Collegiality has its roots in the very mystery of the Church. When we speak of the different aspects of the complex reality that is the Church, we are careful to distinguish, not to separate. Thus, we say that the Church is human (a society composed of men) and at the same time divine (a mystical reality, of which Christ is the Head, indefectible in its faith, its unity and constitution); or we say that the Church is a visible reality (composed of men and structured thanks to a visible hierarchy) and at the same time an invisible reality (a mystery of grace and communion in the Holy Spirit) also said that the Church is holy and immaculate and at the same time that she is *ispurificanda*^{2XA} (containing sinners in her own bosom, she is called to be purified). These categories, which seem to be opposed to each other, applied to the Church express the distinction and multiplicity of her aspects: we must be careful not to separate them either theoretically or practically. Thus, it is necessary to consider in their unity both the spiritual and sacramental aspects of the Church and its institutional aspects, if we want to understand collegiality in its most

³⁹⁰ LG 23.

³⁹¹ J. RATZINGER, *Église, œcuménisme et politique*, Fayard, Paris, 1987, pp. 74-75.

intimate reality, which is a mystery of ecclesial communion, or in other words, of charity, fraternity, and co-responsibility of the bishops with the Pope and of the bishops among themselves

- *Affective collegiality* could be defined by these words of Paul VI, pronounced in his opening speech at the Synod of Bishops in 1969:

"Let us reflect on this: there is a special bond between us who have been chosen to succeed the apostles, the bond of collegiality. What is collegiality if not a communion, a solidarity, a brotherhood, a charity more abundant and more pressing than the relationship of Christian love between the faithful or between the disciples of Christ associated in various other governments? Collegiality is charity (...). Collegiality is a visible love which the bishops must have for one another (...), it obliges us to a universal charity

214. Cf. *LG* 8: "Ecclesia in proprio sinu peccatores complectens, sancta simul et semper purificanda, poenitentiam et renovationem continuo prosequitur".

selle. Collegial charity has no limits Collegiality is unity"³⁹² .

From the magisterial point of view, this distinction between affective collegiality and effective collegiality was clearly highlighted by Pope John Paul II in his letter *Magnus dies* to all Bishops Holy Thursday 1979 *It is to be hoped, therefore, venerable and dear Brothers, and today in particular, that all that the Second Vatican Council has so wonderfully renewed in our consciousness will take on an ever more marked character of collegiality, both as a principle of our collaboration (collegialitas effectiva) and as a cordial fraternal bond (collegialitas affectiva), in order to build up the Mystical Body of Christ and deepen the unity of the whole People of God*³⁹³ .

This breadth and depth of affective collegiality, which must permeate the relationships and exchanges of the Bishops among themselves and of the Bishops with the Pope, is a crucial element that energizes the activity of all pastors in the service of their particular Churches and in the service of the universal Church This collegial spirit, which is identified with affective

³⁹² PAUL VI, *Opening Address of the Synod of Bishops*, October 11, 1969, in *Catholic Documentation* 1550 (1969), p. 958. In his homily delivered in St. Mary Major on the occasion of the Synod of Bishops, October 25, 1969, Paul VI called collegiality: *an intercommunion of charity and apostolic efficiency* (cf. *Catholic Documentation* 1551 [1969], p. 1010).

³⁹³ JOHN PAUL U, letter *Magnus dies* of Holy Thursday 1979, in *Insegnamenti di Giovanni-Paolo II*, (1979/1), p. 834: "Expetamus igitur, Venerabiles ac Dilecti Fratres, oportet hac praesertim die, ut quaecumque Concilium Vaticanum II in nostra conscientia tam mire renovavit, ea maturiorem formam collegialem assequantur - tum quia principium communis operae nostrae (quae *collegialitas effectiva* dicitur) tum qua signum fraterni vinculi cordium (quod *collegialitas affectiva* vocatur) - ad Corpus Christi mysticum aedificandum et unitatem universi populi Dei arctiorem reddendam ".

collegiality, remains at the heart of all collaboration among the Bishops. According to the report of the extraordinary assembly of the Synod of Bishops in 1985, *theology of collegiality is much broader than its mere juridical aspect. The collegial spirit is broader than actual collegiality understood in the exclusively juridical sense. The collegial spirit is the soul of collaboration among the bishops at the regional, national or international level*²¹¹.

A very common example of the expression of this affective collegiality is found in the liturgy, especially in the mention of the Pope, the local ordinary bishop, in the prayers of the Mass (with explicit reference to the College of Bishops in Eucharistic Prayers II and III) The prayer *Te igitur clementissime Pater* of the Roman canon, for the Church, in union with all her pastors (*una cum famulo tuo Papa nostro et Antistite nostro et omnibus orthodoxis, atque catholicis et apostolicis fidei cultoribus*), seems to be, more than a manifestation of ecclesial communion, but a recognition of this bond of affective collegiality that links the Pope and the bishops among themselves

According to A. Anton, the Second Vatican Council understands *Vaffectus collegialis* not as a pure sentiment but as an ontological reality deriving from the sacramental ordination of Bishops and ordered to collegial action, or effective collegiality³⁹⁴. In this it differs from the spirit of communion which is proper to every member of the Church, to every baptized person. The spirit of communion is quite distinct from *Vaffectus collegialis* because it is based on the equality of all the faithful, regenerated by baptism and incorporated into the Church of Christ. *Vaffectus collegialis* concerns only the bishops because it is rooted in the sacramental reality of the episcopate.

- *Effective collegiality* will be the current application in the daily life of the Church of this *affectus collegialis*. It is in this perspective that most of the interventions of the recent Magisterium must be interpreted, when it addresses the theme of the government of the universal Church and the role devolved to the College of Bishops. This effective collegiality, which John Paul II willingly calls *lived collegiality*, is found in extremely varied forms. One thinks of the statements of the Pope who counts among the achievements of collegiality the Synod of Bishops, the College of Cardinals, the national conferences of bishops, the meetings with the local bishops during apostolic journeys, the ad limina visits, the offices of the Roman Curia³⁹⁵. Similarly, Pope Paul VI had expressed his desire to promote this effective collegiality by means of various episcopal institutions: *We believe that we have already given proof of our desire to ensure the concrete development of episcopal collegiality: by*

394 Á. ANTÓN, *La Collegialità nel Sinodo dei vescovi in il Sinodo dei Vescovi, Natura, Metodo, Prospettive* (a cura di Jozef Tomko), Libreria Editrice Vaticana, Roma, 1985, p. 92.

395 In his address to the Sacred College on 28 June 1980, Pope John Paul II listed the principal events, facts, institutions and practices that have taken place since the beginning of his pontificate and that belong to *collegiality lived (collegiality vissuta)*, even if they apparently have very different characteristics (cf. JOHN PAUL II, *Allocution to the Sacred College and the Roman Curia*, 28 June 1980, in *Catholic Documentation* 1790 [1980], pp. 667-677).

*instituting the Synod of Bishops, by recognizing episcopal conferences, or by associating with the ministry proper to our Roman Curia some of our brothers in the episcopate, who are pastors residing in their own dioceses*³⁹⁶.

Effective collegiality refers above all to forms of concrete collaboration, -regulated by a juridical structure of ecclesiastical law, of bishops among themselves or of bishops with the Pope³⁹⁷. Missionary cooperation between certain dioceses, mutual aid and ecclesial solicitude translated into concrete actions also fall into this category. Since we will discuss the Synod of Bishops in detail in the second part of our work, we refer here to all the other ways of expressing *Fumocollegialis* mentioned by the Council³⁹⁸, which, even if they do not constitute true acts of jurisdiction, are authentic manifestations of *collegialitas effectiva*.

Pope John Paul II, after having recalled in the encyclical *Redemptor hominis* the great principle of collegiality brought to light at Vatican II, sets out certain applications of this principle in post-conciliar achievements which are forms of effective collegiality³⁹⁹.

Compared to *collegialitas effectiva*, which is only an external manifestation of the collegial union of the bishops, *collegialitas affectiva* remains at the heart of collegiality, it is like the principle that gives it its form and its dynamism. For W. Kasper, the expression *affectus collegialis* - designates the deepest reality of collegiality:

"Thus, *collegialitas affectiva* should not be understood as a purely emotional dimension, as a mere collegial feeling; rather, *collegialitas affectiva* is the expression of the ontological-sacramental reality of collegiality; to this extent it serves as a foundation of effective collegiality"⁴⁰⁰.

³⁹⁶ PAUL VI, *Opening Address of the Synod of Bishops*, October 11, 1969, in *Catholic Documentation* 1550 (1969), p. 957.

³⁹⁷ C. Colombo lists among the forms of actualization of the *affectus collegialis* the episcopal conferences, particular councils, missionary cooperation, mutual aid of the particular Churches among themselves, the Synod of Bishops, continental and linguistic associations of bishops (C. COLOMBO, *Il significato delle collegialità episcopale nella Chiesa*, in *Jus Canonicum* 19 [1979], p. 22).

³⁹⁸ Cf. LG 23.

³⁹⁹ JOHN PAUL II, Encyclical *Redemptor hominis* 5: "The Council did not content itself with recalling this principle of the collegiality of the bishops; it gave it great vitality, especially by wishing for the institution of a permanent body, which Paul VI established with the Synod of Bishops (...). Since we are dealing with the evident development of the forms of episcopal collegiality, we must at least recall the process of consolidation of the national Episcopal Conference throughout the Church, and other collegial structures of an international or continental character, (...) the other forms of collegial collaboration of Bishops

⁴⁰⁰ W. KASPER, *Der theologische Status der Bischofskonferenzen*, in *Theologische Quartalschrift* 167 (1987), p. 3. The quotation in German is: "Folglich darf auch die *collegialitas affectiva* nicht als eine rein emotionale Größe, als eine bloße kollegiale Gesinnung verstanden werden; die *collegialitas affectiva* ist vielmehr Ausdruck der ontologisch-sakramentalen Realität der Kollegialität; insofern ist sie der *collegialitas effectiva* als deren

This view echoes that of G. Philips who said in 1969:

"*The affectus collegialis*, of which the texts speak, would be a caricature if it were understood of a vague sentimentality and not of an ontological real factor"⁴⁰¹.

According to the expression of Cardinal G. Garrone, *collegiality is first of all a spirit that can generate all kinds of new relationships*⁴⁰². According to Pope John Paul II, *collegiality means reciprocal openness and fraternal cooperation of the bishops in the service of evangelization, of the mission of the Church*²²¹.

It is therefore clear that the binomial we have just been talking about: "effective collegiality" / "affective collegiality" is perfectly distinct from the previous binomial: "collegiality in the strict sense" / "collegiality in the broad sense". An act of effective collegiality will not necessarily be an act of collegiality in the strict sense, and even in most cases will be an act of collegiality in the broad sense. Similarly, affective collegiality is a much broader notion that will inform any act of collegiality in both the strict and broad senses.

X - 4 Full and partial collegiality

The College of Bishops, says the *Nota explicativa pravia*, although it has a permanent existence, does not always act in a strictly collegial manner, and is not always in full exercise⁴⁰³. In other words, it does not permanently exercise a full form of collegiality. This suggests that there may be partial forms of collegiality. To say that collegiality is exercised only within the whole College, or only by means of strictly collegial acts, would be to reduce its use considerably and to empty it of its theological content and practical applications. Here it is a question of resisting the temptation of the all or nothing approach and of avoiding thinking of a collegial vacuum where there is no action of the *College* as such, in its formal act committing its authority juridically and involving the whole episcopate⁴⁰⁴. In fact, the Second Vatican

Grundlage vorgeordnet.

401 G. PHILIPS, *Press conference on the occasion of the Synod of Bishops in Borne*, 18 October 1969, in Jan GROOTERS, *Primacy and Collegiality, the Gerard Philips dossier*, University Press/Ed. Peeters, Leuven, 1986, p. 219.

402 G. GARRONE, *Introduction to Chapter III of Lumen Gentium*, in *Documents conciliaires*, volume I, Le Centurion, Paris, 1965, p. 61.

403 *NEP 4* : " Collegium vero, licet semper existât, non propterea permanenter actione stricte collegiali agit, sicut ex Traditione Ecclesiae constat. A. v. non semper est in actu pleno", immo non nisi per intervalla actu stricte collegiali agit".

404 One can think of the analogy of real, though imperfect, communion between Catholics and separated Christians as described in the ecumenical decree *Unitatis redintegratio*: "Hi enim qui in Christum credunt et baptismum rite receperunt, in quadam cum Ecclesia communione, etsi non perfecta constituuntur" (*UR 3*). Just as a distinction is made between

Council envisaged forms of collegiality which we would call *partial* (even though the Constitution *Lumen Gentium* did not use the word) but which are nevertheless true: the Eastern Patriarchates, Episcopal Conferences, Synods of Bishops, Synods or Particular Councils⁴⁰⁵. Thus Á. Antón, dealing with the activity of the episcopal conferences, qualifies it as a *truly collegial activity, albeit partial*⁴⁰⁶. He is careful to distinguish this partial collegiality from full collegiality:

It can and should be said that the College finds its full realization and expression - the collegial feeling being clearly determined from a juridical point of view - through action of the whole College of Bishops gathered in Council or dispersed throughout the world, while in its other forms of intervention (Synods, Episcopal Conferences, etc.) it is only **partially realized**^{*407}.

Other authors speak of partial collegiality realized at certain levels of the life of the Church, or of lower degrees of collegiality, in the exchanges, consultations or common decision-making between bishops of a certain region. Thus, for G. Dejaifve, the constitution *Lumen Gentium*, while honouring the expressions of collegiality which proceed from the solicitude of the members for one another, *sees in them only lower degrees of collegiality, since it reserves the qualification of a strictly collegial act to a concerted activity of the body with the Head*⁴⁰⁸. Father Tillard speaks of certain forms of *episcopal solidarity in collegial responsibility* which, *although they only partially express this solidarity, come from within it*⁴⁰⁹. Jerome Hamer speaks

perfect and imperfect communion (quædam communio), so it is appropriate to distinguish full (perfect) collegiality from partial collegiality (quædam collegialitas).

405 Cf. LG 23 d, CD 37-38.

406 Á. ANTÓN, *Le statut théologique des conférences épiscopales*, in *Les conférences épiscopales*. Actes du colloque international de Salamanque, 3-8 janvier 1988, Paris, Les Éditions du Cerf, 1988, p. 280.

407 *Ibid.*, p. 278.

408 G. DEJAIFVE, *Episcopal Collegiality according to "Lumen Gentium"*, in *Lumen Vitæ* 20 (1965), p. 491. Speaking of the sacramental union and communion of the bishops with the Supreme Pontiff, which corresponds to the current concept of collegiality, W. Bertrams recognizes various degrees of realization: "Episcopi enim cum supremo Pastore constituunt sacramentalem unionem et communionem, quæ etiam socialiter semper actuatur, etsi hæc actio socialis diversis gradibus haberi possit, usque ad actum stricte collegialem totius corporis Episcoporum cum supremo Pastore" (W. BERTRAMS, *De Synodi episcoporum potestate cooperandi in exercitio potestatis primatialis*, in *Periodica de Re Morale, Canonica, et Liturgica* 57 [1968], p. 538).

409 J. M. R. TILLARD, *Église d'Églises, L'Écclésiologie de la communion*, Les Éditions du Cerf, Paris, 1987, p. 262. A. Dulles will speak of limited expressions of collegiality with regard to episcopal conferences (A. DULLES, *L'écclésiologie catholique depuis Vatican II*, in *Concilium* 208 [1986], p. 20). W. Onclin prefers to speak of collegiality exercised indirectly: "Indirectly this episcopal collegiality thus finds expression in certain actions which are not acts of the College as such, but acts of a bishop acting individually or of several bishops operating jointly in the service of various particular Churches (W. ONCLIN, *Episcopal collegiality in its present or latent state*, in *Concilium* 8 [1965], p. 83).

of a *limited exercise of episcopal collegiality* regard to these forms of collegiality⁴¹⁰.

Finally, it should be noted that for some, the expressions *true but partial collegiality*, or *collegiality to the second degree*, are still quite imperfect. Thus for Pierre Eyt :

"Besides the "strictly collegial act" referred to in the *Nota explicativa prcevia*, there are other concrete ways of realizing the "collegial feeling". Here several terminologies have been proposed. For those expressions and realizations of episcopal collegiality other than strictly collegial acts one has spoken of "a theologically improper analogical sense". Elsewhere the formula of "true but partial collegiality" has been used. W. Onclin had suggested the formula of "collegiality in a latent or habitual state". The expression "indirectly collegial" or "second degree collegial" has also been used. These and other designations tend to show both the actual relationship of these forms of expression of episcopal collegiality to the sacramental basis of collegiality and the limit of that relationship. None of these attempts at theological precision is truly satisfactory^{*411}.

Finally, it should be noted that full collegiality is not the same as collegiality in the strict sense, even though it may be superimposed on it accidentally in particular cases. In fact, a common action of the episcopate of the whole world, if it does not result in an act of government over the universal Church which would juridically engage the authority of the College, is not an act of collegiality in the strict sense as defined in *Lumen Gentium* 22, but is nevertheless an exercise of full collegiality. One can think, for example, of a common exhortation of the whole episcopate united to its head to encourage the faithful, of a common step to favour peace, to help the unfortunate, to promote a certain devotion, etc., (all of which do not fall directly into the category of *potestas jurisdictionis*).

We have made a point of distinguishing between the binomials: "collegiality in the strict sense" / "collegiality in the broad sense", "affective collegiality" / "effective collegiality", "full collegiality" / "partial collegiality". We have shown that these binomials do not necessarily coincide, but grasp the concept of collegiality, each time from different points of view. These distinctions seem to us to be fundamental for a rigorous analysis of the

410 J. HAMER, *Les conférences épiscopales, exercice de la collégialité*, in *Nouvelle Revue Théologique* 85 (1963), p. 968. In the same article, J. Hamer gives this rather happy definition of collegiality: "a universal responsibility which belongs to the bishop in virtue of his office as successor of the apostles, in the solidarity of the whole Episcopal Body, under the effective direction of the Successor of Peter" (*pp. cit.*, p. 967). He adds the interesting remark: "There are not two episcopal collegialities: the one that would be exercised on a universal scale and the one that would be manifested on the scale of any region. Only one, but it has infinitely varied forms" (*op. cit.*, p. 969).

411 P. EYT, *Autour des conférences épiscopales*, in *Nouvelle Revue Théologique* 111 (1989), p. 349.

theological nature of the Synod of Bishops and its relationship to collegiality

XI - LINK BETWEEN COLLEGIALITY AND COMMUNION

According to Pope John Paul II, communion is a key concept in the ecclesiology of Vatican II, which made it the axis and inspiration of its documents: *The Church thus appears as the universal communion of charity, founded on faith, the sacraments and the hierarchical order, in which pastors and faithful are nourished personally and communally from the sources of grace, obeying the Spirit of the Lord, who is the Spirit of truth and love*²³¹.

It is difficult to summarise in a few lines the richness of the ecclesiology of communion manifested in *Lumen Gentium*⁴¹². We will limit ourselves to quoting A. Favale:

The theme of communion with God and among men presides over the very disposition of the chapters of the Constitution, in which the description of communion within the Trinity (chap. I) precedes that of the communion of God with men (chap. II) and that of the members of the Church among themselves according to the different services they perform for the building up of the Mystical Body (chapters III and IV); this is followed by the treatise on the growth of the members of the People of God in the divine life they have received (chapters V and VI), in expectation of the reality which they possess in germ, in communion with the saints in Heaven (chapter VII). Finally, chapter VIII presents the Virgin in her intimate union with Christ and with other men^{*413}.

This notion of Communion, which lies at the very heart of the Church's doctrine⁴¹⁴, is the pivot on which it will organize and structure itself⁴¹⁵.

We have seen in paragraph X - 3 that the notion of collegiality, if it

⁴¹² The reader may refer to our presentation of the constitution in paragraph I - 1 of this chapter.

⁴¹³ A. FAVALE, *Genesi dello schema*, in AA. W., *La costituzione dogmatica sulla Chiesa*, ed. A. Favale, Elle Di Ci, Torino-Leuman, 1965, p. 70. It is also interesting to refer on this theme to the book by A. ACERBI, *Da una ecclesiologia giuridica a una ecclesiologia di comunione*, Facoltà Teologia Interregionale dell'Italia Settentrionale, Centro Editoriale Dehoniano, Bologna, 1975

⁴¹⁴ Cf. J. RATZINGER, *Église, œcuménisme et politique*, Éditions Fayard, Paris, 1987, p. 17: "This ecclesiology of communion has become the heart of the Church's doctrine of Vatican II, the new and at the same time fully original element which the Council wanted to give us".

⁴¹⁵ Cf. JOHN PAUL II, *Apostolic Constitution Pastor Bonus*, 28 June 1988, in *Catholic Documentation* 1969 (1988), p. 898. It is on the basis of communion which, in a certain sense, holds together the whole Church, endowed by the Lord with a collegial and at the same time primatial nature (...)"

presupposes communion, is not identified with it. It is a very particular form of communion, in which the sacramentality of the Episcopate remains the determining bond of those who are already united in the charity of the Church.

Episcopal collegiality is already manifested at the very moment when a new bishop is inserted into the College, by means of the episcopal ordination legitimately received, which constitutes the ontological support of the ministerial functions, which he exercises *cum Petro and sub Petro*. Membership in the College of Bishops, which is the *sine qua non* of collegiality, requires hierarchical communion on the part of the pastors, as specified in the Constitution *Lumen Gentium* (n. 22) and especially in the *Nota explicativa pravia* n. 2.

Collegiality can be said not only to presuppose communion, but also to be ordered to communion. Cardinal Wojtyła, then Archbishop of Krakow, spoke at the 1969 Synod of Bishops about this interaction between communion and collegiality:

Every exercise of collegiality⁴¹⁶ while serving the mutual communion of the Church's pastors, also serves the communion of the bishops with the faithful. This exercise ultimately serves to unite the Church in a more organic way. Communion, in fact, is nothing other than unity in its dynamic dimension⁴¹⁶.

Earlier, he had stressed the importance and necessity of collegiality in view of communion:

"The idea of communion, seen in this light, is of great importance in relation to the collegiality of Bishops in the Church. The universal communion of the faithful in the universal Church of Christ requires, in fact, its expression also in a certain communion of the particular Churches over which the Bishops preside. This communion also involves a certain communication of goods, which, though it remains largely hidden from view, also requires an external and visible part. precisely because of this importance that the collegiality of the bishops corresponds to the full communitarian sense of the Church⁴¹⁷.

Thus, in collegiality itself, at the formal level of the exercise of ecclesial

416 KAROL WOJTYŁA, *Intervention of 15 October 1969*, in G. SARAF (a cura di), *Karol Wojtyła e il Sinodo dei Vescovi*, Città del Vaticano 1980, p. 162: "Ora ogni esercizio della collegialità, mentre serve alle reciproche comunicazioni dei Pastori nella Chiesa, serve anche alla comunione sia dei vescovi che dei fedeli. It serves, in short, to unite the Church in an ever deeper way and via a more organic way. In fact, unity in its dimension of diversity is what unites us".

417 *Ibid.*, pp. 161-162. "Considerata sotto questo aspetto, l'idea di comunione ha una grande importanza in ordine alla collegialità dei vescovi nella Chiesa. The universal comunione dei fedeli all'interno dell'universale Chiesa di Cristo esige, infatti, una sua espressione anche in una certa comunione delle Chiese particolari, alle quale presidono i vescovi. Even this meeting includes a certain communication of goods, which, although in large part is internal and hidden from view, also has an external and visible part. It is precisely for this reason that the collegiality of the bishops corresponds in full to the communitarian sense of the Church

power, the principle of *Communion* arises, which has a theological significance much wider than collegiality itself, since it concerns not only the functioning of the ministries in their sacramental and jurisdictional function, but the whole mystical-sacramental reality of the Church, which at the ontological level is a *communio cum Deo et hominibus*⁴¹⁸ and at the structural level a *communio Ecclesiarum*⁴¹⁹ *5 .

In the second part we will see how the Synod of Bishops, which brings together some Pastors, representatives of a large number of Churches, gathered together for a community journey of faith and hope, manifests itself as one of the privileged instruments of ecclesial communion. Speaking of the Synod of Bishops, Pope John Paul II said that it immediately appeared as a special expression and instrument of ecclesial communion. He also said that it is a particular expression of the collegiality of the bishops with the Pope⁴²⁰ .

CONCLUSION OF THE FIRST PART

In this first part, we have set the framework for the study of the theme of the Synod of Bishops by defining and reflecting on collegiality. We have been able to analyze the content of the collegial union of bishops, its theological foundation, its implications and its concrete applications in the life of the Church, emphasizing the traditional and well-founded character of the doctrine of collegiality elaborated at the Second Vatican Council. The continuity of the theological reflection resulting from the work of Vatican I, manifested in the Constitution *Lumen Gentium*, and continued in the period following the Council, has not prevented us from distinguishing many doctrinal enrichments, such as the adoption of the notion of the College with regard to the episcopal body, the distinction between the relationship between Peter and the Apostles on the one hand, and the Pope and the bishops on the other (thanks to the *pari ratione*), and the permanent solicitude of the

418 The letter *Communions notio* of the Congregation for the Doctrine of the Faith specifies: "Ecclesial communion is at once visible and invisible. In its invisible reality, it is the communion of every man with the Father through Christ in the Holy Spirit, and with other men, co-participants in the divine nature in the Passion of Christ, in the same faith, in the same Spirit. In the Church on earth there is an intimate relationship between this invisible communion and the visible communion in the doctrine of the Apostles, in the sacraments and in the hierarchical order" (CN 4)

419 According to *Communions notio* this *communio Ecclesiarum* is to be understood in an analogical sense, since the particular Churches, "as parts of the one Church of Christ, have with the whole, that is, with the universal Church, a particular relationship of mutual interiority" (CN 9a) The communion of the faithful and the communion of the churches constitute the same reality seen from different perspectives" (CN 9c)

420 JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, § 3, in *Catholic Documentation* 2021 (1990), p. 103. In an earlier address to the General Council of the Secretariat of the Synod, the Pope said: "The Synod expresses collegiality in an extremely intense way, even if it is different from the Council" (JOHN PAUL II, *Address to the General Council of the Synod*, April 30, 1983, in *Catholic Documentation* 1854 [1983], p. 612).

episcopate for the Church of Christ. Our attention was drawn in particular to what is meant by *collegiality in the strict sense*, and to the conditions necessary for an act of the episcopate to be *strictly collegial*. Finally, it became clear that the supreme and collegial power of the bishops brought to light at Vatican II was theologically rooted in a very serious and traditional current, so that it is entirely appropriate to speak of a *genuine homogeneous development* in this regard.

In this first part, the circumstances and the content of the definition of the Primacy of the Roman Pontiff elaborated in the Constitution *Pastor aeternus* of the First Vatican Council have been singularly highlighted. We have seen how the Fathers of the Council, while discussing the doctrine of the primacy of jurisdiction in the person of the Supreme Pontiff, were led to speak of the subject of the bishops and the episcopate in relation to the government of the universal Church. The constitution *Pastor aeternus*, which intentionally focused on the theme of the papacy, was to be followed by a second constitution on the Church, dealing directly with the theme of the episcopate. Political events not permit the realization of this project, but the thinking of the Council Fathers became clear, thanks in particular to Archbishop Zinelli, the official reporter of the Deputation of the Faith, who did not hesitate to speak of the exercise of the supreme power of jurisdiction by all the bishops united to the Pope. Kleutgen's outline, together with his *Relatio*, has enabled us to see how this doctrine of collegiality was already mature and even elaborated at the time of the First Vatican Council.

In the decades that followed the First Vatican Council, as a result of a one-sided consideration of the text of *Pastor Aeternus*, the balance between the doctrine of the Primate and that of collegial responsibility was broken, so that a fraction of theologians liked to identify Catholic doctrine with the sole affirmation of the prerogatives of the Supreme Pontiff.

Fortunately, numerous studies undertaken before the opening of the Second Vatican Council on the participation of the episcopate in the government of the universal Church have brought to light the calm possession of this truth in Catholic thought. A reading of the text of Vatican I, with the inclusion of the doctrine of collegiality, should have made it possible to offer a richer and more nuanced teaching, by presenting the two complementary sides of a single dogmatic synthesis.

The declaration *Mysterium Ecclesiae* of the Congregation for the Doctrine of the Faith makes a general statement about the evolution of the presentation of the truths of faith, which seems to be relevant: *potestas suprema* in the Church: "It may happen that a dogmatic truth is at first expressed in an incomplete, though not false, way, and that later on, considered in a wider context of faith and human knowledge, it is signified more fully and perfectly"²

The studies of theologians during the preparatory phase of the Second

Vatican Council, and the Council's own considerable work on the theme of the episcopate and collegiality, made it possible to update ideas of the participation of the universal episcopate in the supreme government of the Church. The theme of collegiality was considered in all its breadth, and the final conclusions that appeared in the conciliar documents showed, first of all, that the doctrine of the collegial power of the bishops over the universal Church was an established fact, even if the interpretations of the mode of exercise of this power and its articulation with that of the Roman Pontiff were the object of lively controversy. For a number of theologians, the supreme power of jurisdiction, with which the Church of Christ is endowed, finds its realization in a single subject, the Supreme Pontiff, for others in the College of Bishops alone, and for still others in two inadequately distinct subjects interesting to recall how Fr. Kleutgen, in 1870 on occasion of preparation of the second outline on the Church, considered that

247. CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Declaration Mysterium Eedesice*, in *Catholic Documentation* 1630 (1970), p. 667.

would regard the doctrine of the supreme jurisdiction of the College of Bishops united to the Pope as a sure doctrine, which *per se ipsum fidei dogma certissimum enumiat* (which by itself states a dogma of faith absolutely certain).

The text of the Constitution *Lumen Gentium* reflects a healthy and balanced renewal of ecclesiology, in which the ontological consistency of the College of Bishops finds its place in relation to that of the Supreme Pontiff. The mystery of communion which presides over the exchanges of the ecclesiastical hierarchy, as of the heavenly hierarchy, is the ontological foundation of the nature of the Church.

Taking into account the work of Vatican II, the analysis of the conciliar texts, the practical realizations in terms of ecclesial life with the establishment of episcopal conferences, the institution of the Synod of Bishops, and other forms of collaboration among bishops, are all factors that have led us to examine the notions of effective collegiality and affective collegiality, of full collegiality and partial collegiality, of collegial feeling. These notions will be particularly useful in the second part of the study, which deals with the functioning of the Synod of Bishops, the nature of its acts or deliberations, and its close link with collegiality and ecclesial communion.

4. MANSI 53, 308-317.

11. H. L. C. MARET, *Du Concile général et de la paix religieuse* tome. I, Paris, 1869, pp. XX-XXI.

25. *aut eum habere tantum potiores partes, non vero totam plenitudinem huius supremæ potestati*" (DS 3064).

26. MANSI 52, 1201 D.

34. Thus the Faith Delegation rejected an amendment tabled by Bishop Deschamps on 9 June 1870 (cf. MANSI 52, 545 D-546 A; MANSI 1094 D- 1095 A). The reply of the

rapporteur, Bishop Zinelli, is that the content of this amendment will be considered during the drafting of the "secunda" constitution of the Church which will deal explicitly with the institution of bishops: "*Emendatio* sub numero 48° non pertinet ad hanc constitutionem; nam de institutione episcoporum argumentum est speciale, et ratio habenda erit, in quantum erit juris, cum tractabitur de institutione episcoporum, ut jam sæpe dictum est (...)" (MANSI 52, 1112 B).

66. MANSI 53, 321 C.

75. MANSI 53, 321 C.

81. G. PHILIPS, *L'Église et son mystère*, Tome I, Desclée, Paris, 1967, p. 298. If we follow the reasoning of J. V. Bolgeni, a bishop ordained outside Catholic communion would immediately, by the fact of his ordination, possess universal jurisdiction over the whole Church in the same way as a Catholic bishop according to the teaching of the Second Vatican Council, the entire pastoral office is conferred on the bishops at the moment of their episcopal ordination, and if the new bishop is in hierarchical communion with the Pope and the members of the College, he is in possession of

11. C. JOURNET, *op. cit.* p. 502, devotes a paragraph to the power of sovereign jurisdiction granted to the College of Apostles: "These words (Mt 18:18) were first addressed to Peter (Mt 16:19). They are now addressed to the whole Apostolic College. What does this mean, if not that the Apostolic College will participate in Peter's power, that it will share with Peter the supreme jurisdiction over the universal Church

28. ST. BRUNO, bishop of Segni, *Comment, in joan*, part. III, cap. 21, n. 55.

29. "Quid enim Dei Filius spectavit, cum claves regni coelorum *uni* pollicitus est Petro? Summum fastigium potestatis nomine *clavium* eo loco designari, usus biblicus et Patrum consentientes sententiae dubitari non sinunt. Neque secus interpretari fas est, quae vel Petro separatim tributa sunt, vel Apostolis conjunctim cum Petro Si, ligandi, solvendi, pascendique facultas hoc parit in episcopis, successoribus Apostolorum, ut populum quisque suum vera cum potestate regat, certe idem parere eadem facultas in eo debet, cui pascendi *agnos* et *oves* assignatum est, Deo auctore, munus: *Non solum Pastorem (Petrum), sed pastorum pastorem (Christus) constituit: pascit igitur Petrus agnos, pascit et oves, pascit filios, pascit et matres: regit subditos, regit et prelatos quia preter agnos et oves in Ecclesia nihil est* (S. Brunonis, Episcopi Signensis, *Comment, in joan*, part. III, cap. 21, n. 55). Hinc illæ de beato Petro singulares veterum locutiones, quae in summo dignatis potestatisque gradu locatum luculente praedicant. Appellat passim: *principem cætus discipulorum: sanctorum Apostolorum principem (...)*" (LEO xii, *Satis Cognitum*, ASS 28 [1895/96], pp. 734-735).

37. G. VAN NOOK, *Tractatus De Ecclesia Christi*, Amstelodami, Apud C. L. Van Langenhuisen, 1913, pp. 33-34, n. 34: 'Sacer principatus, in Collegio Apostolorum inchoatus, perseveravit in Collegio Episcoporum'.

82. A. TANQUERAY, cooperante J. WEBER, *Synopsis theologice dogmatica fundamentalis*, Pars prima, Desclée & socii, Parisiis-Tornaci-Romæ, 1908, p. 338.

4. *Op. cit.* p. 72.

11. *Op. de*, p. 90.

18. A. MICHEL, *Episcopate and Roman Primacy in L'Ami du Clergé*, 71^{ème} year, n. 12, 23 March 1962, p. J61.

28. D. STAFFA, *op. cit.*, pp. 18-19.

36. *Op. cit.* p. 471.

^r014111 s °cietate, et ex parte ab ea differt. Convenit quidem secundum
¹*P&a^{nem} habet communi omnium actione et tendentia prosequendum. *rinia* ^{Secum} ^{um}
 Q^u °d finis ille supernaturalis est, ad quem scilicet sufficientia prin- (1st ^{mi} - ^{nai}U^rS^u) sita, sed
 desuper a Deo in sociale corpus effluere debent sub en^{cl}am consideres prout convenit cum
 aliis humanis societatibus, id est S^U1^{omn} 'societati communis est, sic sine
 difficultate
 niH^a051^m P^{ole} stas regiminis sive jurisdictionis. Non enim potest societas mnmi, i^r61Sⁿ ! S- Slt auct^r

"tas efficaci similique movens singulos ad commune in ^{s,one ?seu Aus} regendi imperio omnes actus membrorum societatis in ordine ad propnum ipsius societatis finem".

46. D. STAFFA, *op. cit.* p. 48.

muntoti, Coll. *Unam Sanciam* 40, Les Éditions du Cerf, Paris, 1962; the author knew, even before the opening of the Council, to show how the notion of *communio* gave perfect account of ecclesial reality

November 21, 1964, in *la Documentation Catholique* 1437 [1964], pp. 1537 &.

19. See AS III, vol. III, p. 177.

34. See previous note.

37. U. BETTI, *op. cit.* p. 217.

40. ^{' " " " " y s i n ^ ^ t} Desclée, Paris, 1967 p. 307).

tamquam divini ^o L^o In ^o mmunione cum Romano Pontifice docentes ab omnibus ^{veritatis} venerandi sunt; fideles autem in sui religioso animi ^{ok^e mor}ibus nomine Christi prolatam concurrere, eique ^{nt^e debent} ^{Hoc} vero **reUgiosum voluntatis et** ^{ita} ^{q^{ue}} ^{se} ^{fe} [?] ^{SmBUlari raÜOne} ^{P^A} ^{ndum eTt} ^{Romani} ^{Pontificia} ^{te} ^{"Xs Z TM} ^{Cum non ex cathe^tTM10t} ^{juilur} ^{ita} ^{"np} [@] ^{"agis-} ^{cere} ^{adhæreatur} ^{iuxta} ^U ^m ^{reverenter} ^{agnoscatur}, et sententiis ab eo prolatiis ^{sin-} ^{præcipue} ^{sive} ^{indole} ^{doru} ^{"^TM} ^{Ct voluntatem} ^{manifestatam} ^{ipsius}, quæ se ^{prodit} ^{"Ze} ^{"^"} ^{proposition} ["] ^{eiusdem} ^{doc-}

47. Cf. LG 19: "quos Apostolos ad modum collegii seu cœtus stabilis instituit, cui ex iisdem electum Petrum praecepit".

53. Jn 20:21.

68. "*Collegiuni* non intelligitur sensu *stricte juridico*, scilicet de cœtu æqualium, qui potestatem suam præsidi suo demandarent, sed de cœtu stabili, cuius structura et auctoritas ex Revelatione deduci debent. Quapropter in Responsione ad Modum 12 explicite de Duodecim dicitur quod Dominus eos constituit "ad modum collegii seu *cœtus stabilis*"... Ob eandem rationem, de Collegio Episcoporum passim etiam adhibentur vocabula *Ordo* vel *Corpus*" (NEP 1).

70. *Votum Pontificia Commissionis de Re Biblica circa n. 22 schematis "De Ecclesia"*, in AS III, vol. I, pp. 13-14.

78. LG 20.

80. See CIP 1.

86. It should be noted that Pope Pius XII in the Constitution *Sacramentum Ordinis* of November 30, 1947, successively defines the matter and form required of the sacred rites to be performed for diaconal, priestly and episcopal ordination. *Iam- vero effectus qui sacra Diaconatus, Presbyteratus et Episcopatus ordinatione produci ideoque significari debent, potestas scilicet et gratia, in omnibus Ecclesiae universalis diversorum temporum et regionum ritibus sufficienter significari inveniuntur manu impositione et verbis eam determinantibus (...). Denique in ordinatione seu consecratione episcopali **materia est manuum impositio quæ ab Episcopo consecratore fit. Forma autem constat verbis Praefationis** quorum hæc sunt essentialia ideoque ad valorem requisita: *Comple in Sacerdote tuo ministerii tui summa, et ornamentis totius glorificationis instructum caelestis unguenti rore sanctificat* (AAS 40, 1947, pp. 5-7). By this definition of the matter and form to be used in episcopal ordination, Pius XII implies that *this ordination, in addition to deacon and presbyteral ordination, is indeed sacramental.*

88. Cf. LEO XVI. *Litterae Apostolica Cura*, 13 September 1896, in *ASS* 29 (1896/97), p. 200.

97. CIP 2.

99. "Episcoporum autem missio canonica fieri potest per legitimas consuetudines, a suprema et universali potestate Ecclesiae non revocatas, vel per leges ab eadem auctoritate latas aut agnitas, vel directe per ipsum Successorem Petri; quo renuente seu communionem Apostolicam denegante, Episcopi in officium assumi nequeunt" (LG 24).

109. For the theologian Charles Journet, "according to the Constitution, episcopal consecration confers with the office (munus) of sanctifying, the double office of teaching and

governing. The office (munus) of sanctifying, which can always pass validly to Pact, is in itself and by nature a power (potestas). The office of teaching and governing consists in an internal and ontological quality, belonging, we would say, to the second kind of quality, the *thepotentia* of the ancients, ordered to action. It does not in itself confer communion with the Episcopal Body and its head, nor the concrete determination of its subjects. In order for it to have effect, to be exercised validly and to become a power (potestas), it must also be "recognized" by the hierarchical community with the head and the members of the Church. This recognition, which adds to its interior-ontological nature an exterior-canonical element, is required by divine right, in virtue of the very nature of the Church. It seems that progress has thus been made in the knowledge of the charism of the episcopate" (C. JOURNET, *Le mystère de l'Église selon le deuxième concile du Vatican*, in *Revue Thomiste* 65/1 [1965], p. 30).

111. P. PARENTE, *Saggio di una Ecclesiologia alla luce del Vaticano II*, Città Nuova, Roma, 1964, p. 138. Also B. GHERARDINI (*La Chiesa, Mistero e Servizio*, terza edizione, Biblioteca Scienze Religiose, Roma, 1994, p. 255) affirms that *the testinvece dal Vaticano II è che tutta la "sacrapotestas" dipenda dall'ordinazione episcopale*. This author recognizes, however, that the distinction made by the NEP between the *munera* and the *potestas ad acturn explicita* also allows one to think that "questa è di matrice papale, quella di provenienza sacramentale. Nell'una si ha l'auto- rizza- zione ad agire, che San Tomaso fa discendere "ex simplici iniunctione hominis" e considera per ciò stesso amovibile; nell'altra si ha l' "essentia potestatis" che San Tomaso riconduce alla fonte della consacrazione sacramentale e considera inamovibile. Si ponevano in tal modo le premesse per escludere che la giuridizione episcopale dipendesse immediatamente dal Papa, e nello tempo se ne dichiarava l'origine mediata dall'intervento papale relativamente all'esercizio della giuridizione stessa in una ben delimitata porzione (diocesi) del popolo di Dio" (*op. cit.*, p. 256).

Parallelismus inter Petrum ceterosque Apostolos ex una parte, et Summum Pontificem et Episcopos ex altera parte, non implicat transmissionem potestatis extraordinariae Apostolorum ad successores eorum, neque uti patet, *ζsqualitatem* inter Caput et membra Collegii, sed solam *pivportionalitatem* inter primam relationem (Petrus-Apostoli) et alteram (Papa-Episcopi). Unde Commissio statuit scribere in n. 22: non *eadem*, sed *pari ratione*" (NEP 1).

On this subject, let us note the remark of J. B. d'Onorio: "Thus one cannot say that such and such a bishop succeeds such and such an Apostle, for it is as a whole, as a body, that the bishops succeed the Apostolic Body. The College of Bishops assumes the succession of the Apostolic College, but it is not the reincarnation of it (...). This is why the bishops succeed the Apostles by reason of the episcopate but by a kind of similitude and proportion" (J. B. D'ONORIO, *Le Pape et le gouvernement de l'Église*, Éditions Fleurus-Tardy, Paris 1992, pp. 167-168).

121. LG 22: "Membrum corporis episcopalis aliquis constituitur vi sacramen- talis consecrationis et hierarchica communione cum Collegii Capite et membris".

122. Cf. P. COIJJJ. A, *Collegialità episcopale e Sinodo dei Vescovi*, in *La Chiesa dopo il Concilio*, Ed. Giuffré, Milan, 1972, vol. 2, p. 339.

127. NEP 3.

128. NEP 3. Being the head of the College, the Roman Pontiff retains his primatial power unharmed, which cannot be diminished in any way. His primacy of authority remains unaltered and complete, not only over the Church but over the whole body of pastors. The doctrine of Vatican I is reaffirmed. Thus the text of the constitution *Lumen Gentium* emphasizes that *hujus integra manente potestate Primants in omnes, sive pastores sive fideles* (LG 22b).

Ibid.

Docemus (...) hanc Romani Pontificis jurisdictionis potestatem, *quae vere episcopalis est*, immediatam esse" (DS 3060). The genesis of the introduction of the term *episcopalis* in the constitution *Pastor aeternus* and its theological significance are well explained in U. Birri, *La costituzione dogmatica "Pastor aeternus" del Concilio Vaticano I*, Pontificio Ateneo Antonianum, Roma, 1961, pp. 282-287.

\37.NEP3.

S. Th., *Supplementum*, Q. 37, Art. 1, ad 2um: "distinctio ordinis non est **totius integralis** in partes, neque totius universalis, sed **totius potestativi**. Cuius hæc est natura, quod **totum secundum completam rationem est in uno, in aliis autem est aliqua participatio**".

147. LG 23a.

170. *conc. VaL II. Syn.* p. 756.

172. *Conc. VaL II. Syn*^A p. 720. However, one cannot help but be astonished at the risky and imprecise character of such an assertion which presupposes the existence of a real collegiality even before the explicit approval of the Roman Pontiff.

175. AS II, vol. I, p. 785.

177. AS II, vol. II, p. 417.

178. *Relatio circa Caput III*, nn. 22-27, in *Cotte. Vat. II Syn.* p. 2071.

179. AS III, vol. VIII, p. 72.

180. AS III, vol. VIII, p. 92.

184. *AD, Seria II*, vol. I, Periodus Prima, Pars IV, in *Schema Constitutions Dogmatica "De Ecclesia"* p. 27, § 16.

185 *Ibid*, p. 27 § 16.

187. "D Vaticano II non è riuscito ad affrontare il problema della sinodalità in termini dottrinalmente esaurienti. The last reason is probably due to the fact that he did not develop an exhaustive theological discourse on the Church starting from the *communio* that is held together as a thread, all Vatican Ecclesiology. The symptom of this doctrinal imbarazzo is the lack of use of such sostantive terms as "sinodalità", "conciliarità", and finally "**collegialità**", which would have inevitably postulated a theoretical definition. The Council avoided even the use of the terms "sinodal" and "conciliare", restricting with great parsimony its own use to the term "collegialis", which, because of its insoppriminating technical and juridical value, was among these terms the one most suitable for prejudicially expressing the idea of sinodality(...). D Vaticano II, using with prevalence the technical accertazione of the collegialaggettivo, has admitted to the equivocation secondo il quale la sinodalità - poco felicemente tradotta dalla dottrina teologica corrente con "**collegialità**" - si identifichi con l'attività dei vescovi riuniti in Concilio" (E. CORECCO, *Arride "sinodalità"* in *Nuovo Dizionario di Teologia* a cura di G. BARBAGLIO e S. DIANICH, Edizioni San Paolo, 1988, col. 1446-1447).

193. PAUL VI, *Opening Address of the Synod of Bishops*, 11 October 1969, in *Catholic Documentation* 1550 (1969), p. 957.

204. CD 6.

217. EXTRAORDINARY GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1985), *Final Report* (7 December 1985), II, C, § 4, in *Catholic Documentation* 1909 (1986), p. 40. The Motu proprio *Apostolos suos* takes up this important affirmation: "When the Bishops of a territory jointly exercise certain pastoral functions for the good of their faithful, this joint exercise of the episcopal ministry concretely applies the collegial spirit (*affectus collegiatis*), which is the soul of collaboration between Bishops on the regional, national or international level" (*Apostolos suos* 12).

227. JOHN PAUL II, *Address to the Council of European Bishops' Conferences*, 19 December 1978, in *La Documentation Catholique* 1755 (1979), p. 17.

237. JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, § 3, in *Catholic Documentation* 2021 (1990), p. 103.

Part Two

**THE SYNOD OF BISHOPS
IN THE CONTEXT
OF COLLEGIALLY**

Chapter I

Origin, Institution and Norms of the Synod of Bishops

L5 study of the Synod of Bishops cannot be considered without reference to its history¹, even if it is still brief, especially to its origins and the act of its institution. The context of the Church's life in the second half of the 20th century^e was that of the celebration of the Second Vatican Council, inaugurated by Pope John XXIII and continued and ratified by Paul VI. It was the latter who, shortly before dissolving the conciliar assembly, instituted the *Synod of Bishops* on 15 September 1965.

The *Motu proprio Apostolica Sollicitudo*, which gave birth to this new body, was promulgated during the Council. But the link between the creation of the Synod of Bishops and the Second Vatican Council is not only chronological, but also theological. The decision to establish this assembly of bishops at that time was not the result of a coincidence or practical convenience, but rather the consequence of a whole theological journey and reflection on the Church, especially on the role of the bishops, the collegial character of the episcopate, its relationship with the Supreme Pontiff and its responsibility for the universal Church.

In this first chapter, we propose to study the process which, starting from the discussions which took place at the Second Vatican Council, has brought this new institution into being. We shall see how the Council itself envisages this question and on what basis it is based. Finally, we will look at the official texts which regulate the new institution and which are rich in theological and ecclesiological implications, especially as regards the place of the episcopate in the care and government of the universal Church.

¹ For the history of the Synod of Bishops, see M. ALCALA, *Historia del Sinodo de los Obispos*, BAC, Madrid, 1996.

I - THE ORIGINS OF THE SYNOD OF BISHOPS

1 - 1. The period prior to the Second Vatican Council

A few months after announcing the convocation of an Ecumenical Council on 24 January 1959, Pope John XXIII set up a pre-preparatory commission to consult the bishops of the world, the superiors of the clerical religious orders, the Roman Congregations and the Catholic universities². It gathered from these people any suggestions that might concern points of doctrine, the discipline of the faithful and religious, reforms or renovations to be undertaken in certain areas, matters of concern for the Church, and any problem or opinion deemed worthy of discussion in the conciliar assembly. The pre-preparatory commission carried out its work of consultation, collating the responses and classifying them until 5 June 1960.

Among the responses, some very interesting ones deserve our attention. They suggest the need for a change in the way of conceiving and living the organization of the Church's government, both at the central level and at the level of relations between the Holy See and the other episcopal sees. Already in this phase preceding the Council, we find specific proposals concerning the need to associate a council of bishops from the whole Church to assist the Supreme Pontiff in his legislative office.

On December 22, 1959, Cardinal Alfrink, Archbishop of Utrecht, expressed himself in this way:

Collegiality can exist not only when it comes to convening an Ecumenical Council, but also in the functioning of new institutions that should be created. Perhaps a few councils of expert bishops could be elected throughout the Church so as to fulfill, together with the Supreme Pontiff and the Cardinals of the Curia, the task of legislating for the whole Church. But the Roman Congregations would retain their power of advice and also of execution^{*3}.

Archbishop Oddi, Apostolic Nuncio to Egypt, sent his reply on November 5 of the same year to the Pre-Paratory Commission, requesting

2 2594 bishops, 156 Superiors General of religious orders or congregations, 46 Catholic universities, 11 faculties of ecclesiastical studies and 5 theological faculties belonging to state universities were consulted. All the answers are contained in the documentation *Acta et Documenta Concilii Oecumenici Vaticani II apparando*, which we quote under the abbreviation *AD*. According to G. Caprile, the rate of responses received by the pre-preparatory commission was 76.4%. Out of 2812 requests, 2150 replies were received (cf. G. CAPRILE*, *Il Concilio Vaticano II, annuncio e preparazione: 1959-1962*, Edizione "la Civiltà Cattolica", Roma, 1966, pp. 171-172).

3 B. J. Card. ALFRINK, Archbishop of Utrecht, *AD*, Serie I, Vol. II, pars II, pp. 510-511.

the establishment of a permanent consultative body composed of bishops, clerics, and possibly even lay people from all over the world, which could meet periodically to discuss the major problems of the Church:

For several years now, we have been lamenting the fact that the Church does not have, apart from the Congregations, a permanent consultative body. A kind of reduced council which includes participants (members of the hierarchy, members of the clergy, and possibly laity?) coming from the whole Church and which meets periodically, if only once a year, to discuss major problems and to suggest possible new outlines of the Church's "policy". An organism which finally extends to the whole Church, as the Episcopal Conference gather a part or the totality of the Hierarchy of a country, or as certain other organisms (CELAM for example) extend their activity to the scale of a whole continent⁴.

Bishop Oddi, who simply asks for the creation of a permanent consultative body, the Bishop of Valencia, Spain, Olaechea Loizaga, asks for the abolition of the College of Cardinals, or at least the reduction of its importance, in favour of a senate composed of bishops, who should be drawn from all the components of the Episcopal Body of the Church and representative of the nations or patriarchates:

"Since the dogmatic structure of the Church is composed of the Roman Pontiff, the bishops, the priests and the faithful, it seems that in the same way the "corpus carinalium" should be abolished, or if it is retained, it should not be given the importance and weight it enjoys at present. A Senate should be constituted for the Church, composed solely of bishops in communion with the Supreme Pontiff. And since not all bishops can take part in such a senatorial assembly, such a Senate will be composed only of those bishops elected by all their fellow bishops belonging to the same country or patriarchate, and these elected bishops will represent them"⁵.

The proposal of the Indonesian Bishops' Conference is much more precise. It is a question of setting up a council whose members, elected in the different ecclesiastical provinces, would meet frequently enough to offer advice and express their wishes on important matters for the whole Church:

"A Council shall be instituted consisting of persons elected from the ecclesiastical provinces and representing them. The members of such a Council, after having diligently weighed all things, shall present to the competent authority their wishes or advice. The elected members of this Council shall be chosen in sufficient number from all the regions

4 S. ODDI, *Apostolic Internum in Egypt, AD, Seriat I, Vol. n, Pars V, pp. 393-394.*

5 M. OLAECHEA LOIZAGA, *Archbishop of Valencia, AD, Series I, Vol. II, Pars II, p.*

and shall meet at least once every five years*⁶ .

same vein, Bishop H. J. Van der Burgt, Vicar Apostolic of Pontianak in Indonesia, calls for the creation of a council, representative of the ecclesiastical provinces, with consultative and deliberative power:

A Council with deliberative and consultative powers shall be established, composed of members elected in the Ecclesiastical Provinces and representing them. The number of members will be proportionate to the number of bishops in each ecclesiastical province and this Council will be convened at least once every five years. This Council will be the living voice of all the Christian people spread over the face of the earth and will constitute an excellent means for the promotion and preservation of unity and concord in the universal Church*⁷ .

In order to better assist the Supreme Pontiff in his office as universal Pastor, some proposals consider it necessary to reform the College of Cardinals so that it represents the whole Church more, and to strengthen its functions so that its role is not limited to meetings in consistory or conclave.

Bishop T.E.I. Van Valemberg of Comba, Indonesia, is in favour of a frequent convocation of this College in order to assist the Roman Pontiff effectively: for him, the Church must manifest its universality in a clear and unequivocal manner by *convoking the Sacred College of Cardinals, which is chosen from all regions of the world at least once every five years so that this Senate can really assist the Roman Pontiff in his task governing the Church*³ .

Archbishop Martin of Rouen also wants frequent consultations and meetings of the College of Cardinals so that the cardinals can collaborate more closely with the Pope in governing the universal Church:

example, should it not be hoped that the eminent Cardinals would meet not only in conclave, but more often, perhaps at fixed intervals, so as to exchange remarks and advice with one another, discuss the state of the Churches in the various parts of the world, and thus to assist the universal Pastor more effectively in his task of governing the Church? What once could not be imagined is now so easily achieved! It is not more opportune today than ever that the princes of the cities should meet from time to time*⁸ ?

clear from all the above proposals that the participation of a council of

6 EPISCOPAL CONFERENCE: OF INDONESIA, *AD*, Series I, Vol. II, Pars IV, p. 272.

7 H. K. VAN DER BURGT, Vicar Apostolic of Pontianak, *AD*, Series I, Vol. II, Pars IV, p. 241.

8 J. M. MARTIN, Archbishop of Rouen, *AD*, Series I, Vol. II, Pars I, p. 386.

bishops associated with the Roman Pontiff in the government of the Church was seen as necessary in some minds, and this long before the opening of Vatican Council II. Even if for some there organized and renewed College of Cardinals a composition more representative of the universal Church, would have been able to assume this new role, it is a fact that the idea of the Synod of Bishops did not arise unexpectedly, but was the result of a maturation that had already begun in preparation for the Council⁹.

I - 2. the period immediately prior to the Council Vatican II

On 5 June 1960, Pope John XXIII, with the Motu Proprio *Superno Dei Nutu*¹⁰, inaugurated the phase of direct preparation for the Council, instituting fifteen preparatory commissions and secretariats, including the Central Preparatory Commission and the Theological Commission¹¹. All these specialized commissions will have the task of studying the topics that may be dealt with in the Council¹².

9 Bishop Fagiolo, in his article *II Synodus Episcoporum: origine, natura, struttura, compiti*, in *La collegialità episcopale per il futuro della Chiesa*, a cura di V. FAGIOLO & G. CONCETTI, Vallecchi Editore, Firenze, 1969, pp. 7-8) rightly points out: "È perciò storicamente associato che l'idea del Sinodo non nacque all'improvviso ma che andò sempre più delineandosi ed affermandosi mano con lo svolgersi della preparazione prima e dello stesso Concilio poi. Sembra strano come Laurentin abbia potuto scrivere il contrario: "It does not seem to have been expressed in the preparatory consultation" (cf. R. LAURENTIN, *Eenjeu du Synode*, Éditions du Seuil, Paris, 1967, p. 105)".

10 JOHN XXIII, Motu proprio *Superno Dei nutu*, 5 June 1960, AAS 52 (1960), pp. 433-437.

11 The Central Commission and the Theological Commission presided over by Pope John XXIII himself and Cardinal Ottaviani respectively. The secretaries will be Bishop Felici and Fr.

12 In this document Pope John XXIII underlines the importance of the work of the preparatory commission, which was able to gather abundant material for the subsequent phase: "The pre-preparatory commission carried out the work entrusted to it with the greatest diligence. It contacted the Episcopate to obtain advice and suggestions on the topics to be dealt with in the Council and, after having carefully arranged the material contained in the more than two thousand responses sent by the Bishops and Prelates with joyful eagerness, it brought it to the attention of the Sacred Dicasteries of the Roman Curia. The latter have been able to draw from it in a very useful way by drawing up proposals which they have presented to us. In addition, the ecclesiastical and Catholic universities, moved by a similar emulation, have presented wishes and studies on subjects which will be of great service to the Church

♦ We Ourselves have followed these works of research, conducted with great care, and We have reserved to Ourselves to examine personally with the greatest attention the suggestions and advice of the bishops, the proposals of the sacred Dicasteries of the Roman Curia, and the vows and studies of the universities. We therefore give thanks to the Lord for the generous and fervent work of Our venerable brethren and our dear sons in response

Thus, a commission entitled *De episcopis ac de Diocesium regimine* was set up, under the responsibility of Cardinal Marella, with the special task of preparing plans on questions concerning the partition of dioceses, episcopal conferences, relations between bishops and Roman Congregations, the role of coadjutor bishops and auxiliary bishops, etc.¹³.

The elaboration of the schemas brought out some interesting statements. For example, in the schema on the relationship between the bishops and the Congregations of the Roman Curia, it is stated that the bishops should be considered *as pastors in their respective dioceses and as true members of the Apostolic College*. Reference made to the *solicitude universae Ecclesiae Christi* (solicitude for the whole Church of Christ)¹⁴ on the part of the bishops.

In the scheme dedicated to the pastoral office of bishops, it is desired that bishops appointed by the national episcopal conferences be appointed as consultants of the Roman Congregations¹⁵.

However, according to the judgement of Mr. Bravi¹⁶, the work of *De episcopis* Commission not take into account any of the *wishes* expressed in the previous phase of consultation, which called for a reform of the Church's governmental structures in such a way as to allow for the participation of the episcopate¹⁷.

During the month of February 1962, the discussions in plenary session central commission brought to light the difficulties connected with the lack of any reference in the plans presented to an episcopal body participating in the government of the Church.

Thus Cardinal Alfrink, Primate of Holland, once again reaffirms that an internationalization of the Curia is not enough, but that it is necessary to

to Our plan

is now clear, from the material so abundantly collected, what subjects the next Ecumenical Council must deal with for the good of the Church and the salvation of souls" (French translation of the *Motu proprio Supremo Dei nutu*, in *La Documentation Catholique* 1330, col. 707).

13 See *AD*, Series II, Vol. III, Pars I, pp. 279 & seq.

14 See *AD*, Series II, Vol. III, Pars I, p. 286.

15 "Episcopi diversarum nationum, designati a Conferentia Episcopali Nationali nominentur Consultores SS. Romanae Curiae Congregationum a quibus convocentur, statutis temporibus, ad maximum commune bonum tuendum, ad communia damna avertenda" (*AD*, Series II, Vol. III, Pars I, p. 290).

16 Cf. M. BRAVI, *Il Sinodo dei Vescovi*, P.U.G., Roma, 1995, p. 50.

17 This seems all the more surprising since Cardinal Marella himself affirms that he took into account the suggestions *gathered* by the pre-preparatory commission: "Prima redactio schematis a Pontificibus singularum questionum facta est, attentissime pervolutis tum suggestionibus a Membris Commissionis prolatis, tum Episcoporum omnium et Superiorum Religiosorum consiliis et votis, tum Sacrorum Curiae Romanae Dicasteriorum propositis, tum denique Universitatum catholicarum studiis" (*AD*, Series II, Vol. II, Pars II, p. 499).

create a central body on the model of the Central Preparatory Commission, which can meet frequently:

"Therefore, I dare to propose that the Church should have not ten but one such institute, truly international and universal, in which all nations (or almost all) are present so as to represent the universal Church properly - an institute like that of the High Central Commission - which can be convoked if necessary each year by the Holy Father to deal with matters of great importance which concern the universal Church. Such a mode of Church government will certainly have an international aspect. And undoubtedly, if the universal Church has the experience of distinguishing skillfully between universal things, the confidence of the universal Church in the central government will increase considerably. Obedience is exercised more easily and the unity of the Church emerges strengthened*¹⁸.

Cardinal Alfrink's proposal met with some approval in the central commission and six of the members of that commission made explicit reference to it in the exposition of their *prayer*¹⁹.

Patriarch Maximos IV Saigh is of the opinion that the practice of Synods of Bishops used in the Eastern Churches should be extended to the Latin Church:

"The idea of encouraging episcopal conferences at the national level is in line with one of the concerns of the Eastern Catholic Church: that of restoring in Catholicism the idea and the exercise of episcopal collegiality (...)(...) Bishops are not responsible only for their own dioceses; collegially, they are also responsible for the Church in their country and even for the universal Church (...) It would be desirable to recognize that Synods of Bishops, even in the Latin Church, have real power in the Church, without their decisions being binding other than by recourse to the Holy See*²⁰.

The intervention of Bishop Hurley of Durban is particularly interestingly observes that in the proposed scheme, the affirmation that the bishops are like *true members of the Apostolic College*, does not give rise to any practical application. Moreover, with rare foresight, he outlines what would later become the Synod of Bishops:

"But the outline of the decree itself contains no application of that part of the principle which establishes that bishops are to be clearly seen as true members of the Apostolic College. However, this

18 B. J. CARD AU-RJNK, Archbishop of Utrecht, *AD, Sériés II, Vol. II, Pars n, p. 561.*

19 They are Cardinal Quiroga y Palacios, Cardinal Montini, Archbishop Hurley, Archbishop Perrin, Archbishop Yago, Archbishop Sepinski (cf. *AD, Sériés II, Vol. II, Pars II, pp. 568-574*).

20 Mgr MAXIMOS IV, Patriarch of the Chaldeans, *AD, Sériés II, Vol. II, Pars II, pp. 896-897*).

application can, and in my humble judgment should, be properly carried out by correcting the text in n. 4, Chapter VI, page 12, line 6, so that it takes the following form: *The bishops of the various nations, appointed by the Episcopal Conferences to carry out this office, form a consultative body which meets at specified times; under the presidency of the Roman Pontiff, these bishops confer with him and with the principal officials of the Roman Curia on matters which concern the common good of the Church*²¹.

It is a question, therefore, of giving this *coetus* of bishops a consultative function which helps the Sovereign Pontiff in his office, without having to go through the Roman Congregations. Periodic meetings would make it possible to discuss matters of primary importance for good of the Church.

The deliberations of the Preparatory Commission show unanimity on the need to find a new way to promote the participation of the members of the College of Bishops in the government of the universal Church, even if the mode of this participation is still subject to discussion.

Finally, the outline *De Episcopis ac de Diocesum regimine*, which had emerged from the deliberations of the Central Commission and was drafted by a small sub-commission composed of members of the Conciliar Commission *De Episcopis* and experts²², was finally sent to the Central Commission on 20 March 1963; on 22 April, the Pope finally gave it his *placet*.

The text makes no mention of the proposal to create a new body to collaborate in the central government of the Church. It is mentioned is the desire to extend to the universal Church the recruitment of members and consultants of the Roman Congregations, giving the local episcopates the possibility of designating a certain number²³. From the content of this outline, therefore, it can be said that the expressed desire for a more direct participation of the bishops in the government of the Church has not yet

21 Bishop HURLEY of Durban, *AD*, Series II, Vol. II, Pars II, pp. 563- 564.

22 Instead of immediately convening a plenary meeting of the conciliar commission *De Episcopis*, Cardinal Marella, its president, preferred to follow another procedure: invoking the lack of time and the difficulty for foreign bishops to travel to Rome, he constituted a small sub-commission under the direction of Bishop Carli of Segni, composed of some members present *in urbe* and some experts (cf. G. ALBERIGO & A. MELLONI, *Storia del Concilio Vaticano II*, Vol. II, *La formazione della coscienza conciliare. Il primo periodo e la prima intersessione, ottobre 1962-settembre 1963*, Ed. Il Mulino, Bologna-Leuven, 1996, p. 487).

23 Thus we read in paragraph 5 (*Episcopi in Sacrarum Congregationum consilium cooptandi*): "Nonnulli Episcopi diversarum Nationum, a Conferentia Episcopali Nationali designandi, ab Apostolica Sede nominentur Membra vel Consultores Sacrarum Romanae Curiae Congregationum a quibus, statis temporibus, convocentur ad commune bonum magis promovendum et ad communia pericula efficacius avertenda" (*AS II*, Voi. IV, p. 366).

paved the way for the constitution of a council of bishops, or for the formation of new bodies, representing the world episcopate and cooperating in an ordinary way with the Sovereign Pontiff. The cooperation of the bishops is envisaged only in the perspective of the solicitude for the whole Church which is exercised through the organs of the Roman Curia, which remain totally dependent on the personal and supreme power of jurisdiction of the Pope.

I - 3 The conciliar period. The drawing up of the decree *Christus Dominus*

The Decree *Christus Dominus*, approved and promulgated during the last session of the Council on 28 October 1965, is the fruit of intense and continuous reflection and discussion during the four years of the Second Vatican Council on the theology of the episcopate. Starting from the data and doctrinal foundations of the hierarchical constitution of Church, and especially from the doctrine on the Episcopate elaborated in the Constitution *Lumen Gentium*, it draws certain conclusions of an eminently practical nature.

The outline *De Episcopis ac de Diocesibus*, discussed in the previous paragraph, was the initial support for what was to become the conciliar document *Christus Dominus*,

This preparatory scheme was the subject of numerous amendments and written observations, sent to the Council Secretariat even before the opening of the second session.

Thus, among the proposed amendments, Bishop Baudoux of St. Boniface, Canada, calls for the creation of an *apostolic council*, including the Pope, the Patriarchs of the Eastern Churches, the Cardinals with responsibility for a diocese, the Primate Bishops, and certain Bishops elected directly by certain Episcopal Conferences, all governing the Church together. This council would be a sign of collegiality and an instrument of great effectiveness for the common good, and in fact it should exercise legislative power while the Curia would remain an organ of executive power. The Pope would convoke it once a year²⁴.

24 "[De Consilio Apostolico constituendo], a) Unum constituitur *Consilium Apostolicum* constans ex Summo Pontifice aliisque Pentarchiae patriarchis, cardinalibus diocesibus Ordinariis, reliquis patriarchis orientalibus, primatebus occidentalibus et aliquibus episcopis a Conferentiis nationalibus episcopalibus designatis, ut signum perfectius efficiatur regiminis collegialis totius Ecclesiae utque commune bonum magis promoveatur, b) Huic Consilio Apostolico jus competit in casibus particularibus pro Ecclesia universa legiferandi, peculiaribus officiis vel commissionibus ad adjuvandum institutis, viris etiam peritis unde quaque adscitis in studium quaestionum hodierni ministerii pastoralium et problematum urgentiorum in diversis Nationibus vigentium, ita ut Sacris

As for the bishops of Indonesia, they ask that a *Supreme College of Bishops*, composed of bishops chosen from all nations, be instituted so that, under the immediate direction of the Pope, they govern the whole Church, while assuming certain functions in the dicasteries of the Roman Curia²⁵.

Bishop Kramer of Lugano calls for the establishment of a *permanent College* resident in Rome, composed of bishops elected by the Episcopal Conferences, to assist the Pope in the government of the Church²⁶. The Bishops of the Dutch Episcopal Conference, on the other hand, ask that a representative body of the Episcopal Body be instituted, which could deal periodically with the Pope on the most important questions, so as to reconcile the two collegial and monarchical aspects of the government of the Church²⁷.

In this phase of the Council's work, therefore, the project of the future Synod of Bishops was still poorly sketched out. The role played by the Supreme Pontiff Paul VI in helping the conciliar reflection on this theme was far from negligible. Already, in his funeral speech in memory of Pope John XXIII in the cathedral of Milan, Cardinal Montini had expressed

Congregationibus in suum proprium munus ducendi et moderandi adiumento sint, c) Hoc Consilium Apostolicum ab ipso Summo Pontifice statis temporibus, ad minus semel in anno, convocaretur" (Mgr. BAUDOIX, Archbishop of Saint Boniface, AS II, IV, p. 834).

25 "Relate ad propositum sub hoc numero 5 factum (et quod magni aesti-mandum est) scii, ut nominentur ab Apostolica Sede nonnulli episcopi diversarum nationum membra vel consultores Ss. Romanae Curiae Congregationum et ita Romana Curia magis in dies "internationalis" evadat, oritur quaestio an forsitan aptius non esset et huius temporis circumstantiis magis conveniens, si episcopi de quibus supra, non laborent separarim in variis Romanae Curiae Ss. Congregationibus, sed e contra conjunctim efficerent aliquod "supremum collegium", quod universalis Ecclesiae partes gereret et in quo, sub immediata directione Summi Pontificis et una cum eo episcopi collegialiter exercerent ordinario modo suam in universam Ecclesiam potestatem" (Indonesian Bishops' Conference, /IS II, vol. IV, p. 921).

26 "*Emendatio proposita*: "Apud S. Sedem **formetur collegium permanens episcoporum**, ab episcopalibus conferentiis nationalibus designandorum et a Summo Pontifice approbandorum, quod ad minus semel in anno Romae conveniat, ut de quaestionibus (...), quae pastores animarum in toto mundo laborantes occupant, S. Patrem certiore faciat, de communi bono magis promovendo ac de communibus periculis efficacius avertendis cum eo deliberet, directiva opportuna suggerat, eorundemque executionem coordinet.

"Nonnulli episcopi diversarum nationum, a conferentia episcopali nationali designandi, ab Apostolica Sede nominentur membra vel consultores Ss. Romana Curia Congregationum, a quibus, statis temporibus, convocentur et in laboris deliberatione effective assumentur" (Bishop KRAMER OF Lugano, AS II, vol. IV, pp. 865-866).

27 "Cum Ecclesia regimine juris divini collegialiter regatur sub capite ejus, Romano Pontifice, expedit ut etiam tempore extra Concilium Œcumenicum quoddam organum instituatursujus membra sunt electa ex collegio episcoporum in mundo dispersorum, qui statutis temporibus cum Pontifice tractant de quaestionibus principalioribus Ecclesiae. Per tale organum regimen centrale Ecclesia eiusque regimen collegiale harmonice componi possunt" (Episcopal Conference of the Bishops of Holland, AS II, vol. IV, p. 922).

himself prudently, but not without hinting at his thoughts:

Not only did John XXIII approve and promote the progress already being made in the so-called internationalization of the Church but by spontaneously convoking the Ecumenical Council, he summed up the exploration of the great theme of the constitutional law of the Church, interrupted in its doctrinal statement with the suspension of the First Vatican Council, and thus predisposed the spiritual and practical conditions for the harmonious collaboration of the Episcopal Body, not so much in the exercise (which will remain personal and unitary), but in the responsibility over the whole Church^{*28}.

Pope Paul VI, just elected, had the opportunity to express his thoughts on two occasions.

In an address to the Roman Curia, delivered on September 21, 1963, the Pope envisaged the prospect of a regular participation of representatives of the episcopate in the work and governing responsibilities of the Church:

"It is a sacred principle in the dicasteries of the Roman Curia to question the bishops and to take their thoughts into account in dealing with matters. Among the consultors of the Sacred Congregations there will be many bishops from various regions. We would even say that when the Ecumenical Council expresses the desire to see representatives of the episcopate, especially bishops, heads of dioceses associated in a certain way and for certain matters with the work and responsibilities of Church government, in conformity with Church doctrine and canon law, it will certainly not be the Roman Curia that oppose it"²⁹.

At the opening of the second session of the Council, on 29 September 1963, the Pope again expressed his desire to see the entire Episcopal body associated with his office as Pastor of the universal Church by means of a more effective and responsible collaboration:

"Among the various problems which this theme will pose for the reflection of the conciliar assembly, there will be first of all that which concerns all of you, venerable Brothers, as Bishops of the Church of God. We do not hesitate to tell you that We place great hope and confidence in these forthcoming discussions. While safeguarding the dogmatic declarations of the first Vatican Council on the Roman

²⁸ Cardinal MONTINI, *Funeral speech in memory of John XXIII*, in *Vitalia*, Milan, 8 June 1963 (quoted by V. FERRARA, *Il Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 [1969], p. 497).

²⁹ PAUL VI, *Address to the Roman Curia*, 21 September 1963, in *Catholic Documentation* 1409 (1963), col. 1263 (Latin text in *AAS* 55 [1963], p. 799).

Pontiff, now question of deepening the doctrine of the episcopate, its functions and its relationship to Peter. These debates will certainly provide doctrinal and practical criteria which we will put to good use in the exercise of our apostolic office. Although this universal office is endowed by Christ with the sufficiency and fullness of power that you know, it can nevertheless be better helped and supported, according to modalities to be established, by a more effective and responsible collaboration of our dear and venerated Brothers in the episcopate.³⁰

These two explicit interventions by Paul VI reopened the discussions of the second session and reintroduced into the conciliar aula the debate on the urgency of a Synod seen as a practical application and authentic expression of the doctrine of collegiality.

The discussions in the Council aula from 5 to 18 November revealed a growing tendency among the Council Fathers to call for the institution of a central council of bishops to participate in the government of the Church, as a body situated between the Pope and the Roman Curia.

Cardinal Alfrink reaffirms the need for an *organum centralum*:

(this central organism) although linked to the College of Bishops - whether it is composed of the members of the Sacred College who are at the same time pastors in the dioceses, or whether it is formed in some other way according to the good will of the Pope - is not identifiable with the Body of Bishops. It is not even a representation of that College in the parliamentary sense, as I have already said, because the members of this central body are not delegates of the bishops scattered throughout. But this central body is "a sign of the collegial government of the whole Church"... and furthermore, it is at the same time an instrument by means of which collegial power can be exercised, in a certain way. Thus the character of the supreme collegial *potestas* shines forth also outside the Ecumenical Councils!³¹

Cardinal Barros Camera adds that such an organization would not infringe on the Pope's area of competence, but would help him in his most important decisions:

"The long-standing practice of the dicasteries of the Pontifical Curia, which make use of the advice and doctrine of ecclesiastical experts from all over the world, either on a regular and stable basis or on a more occasional basis, is to be commended and expanded. In addition to this, however, a special body should be set up under the Sovereign

30 PAUL VI, *Address at the Opening of the Second Session of the Council*, 29 September 1963, in *Catholic Documentation* 1410 (1963), col. 1352-1353, (Latin text in AAS 55 [1963], pp. 849-850).

31 Cardinal ALFRINK, *Archbishop of Utrecht, AS II*, vol. IV, p. 480.

Pontiff, the universal Pastor, made up of Bishops from the various nations, who, as delegates of the Episcopal Conferences, can, according to statutes to be defined, help the Pope, the head and foundation of the Apostolic College promote the common good more effectively and to avert common dangers more effectively*³².

As for Cardinal Lercaro, he does not see any innovation in the constitution of such a council since, since the 4th century^e, the Church has seen various customary forms of organisms around the Sovereign Pontiff to help him in his office³³. This new body should play a role in coordinating and unifying the fragmented services of the Curia

Archbishop Van der Burgt of Pontianak, in turn, proposed the creation of an international structure to intensify relations between the Supreme Pontiff and the bishops:

"The reasons for such a proposal are obvious (even independently of the discussion on the collegial character of the Episcopal Body and independently of the personal merits of the members of the Roman Curia, which we are pleased to recognize and praise); the reasons are obvious to those who seriously and recklessly consider the current evolution of contemporary society and have before their eyes the situation of the Church or of the People of God in that society"³⁴.

The Melchite Patriarch Maximos IV, repudiating the role attributed to the services of the Roman Curia, expresses himself in a more categorical way by emphasizing the collegial character of the Episcopal Body and the

32 Cardinal BARROS CAMERA, *AS II*, vol. IV, pp. 613-614. In his written deposition, the cardinal continues: "Non episcopi sunt qui invadere conantur competentiumpontificalium campum. Ipse est Summus Pontifex qui rogat atque exorat ut eius veniamus auxilium (...)" (*Ibid.*).

33 "Nulla juris divini norma Romanum pontificem impedit quominus ipse exercitium huius potestatis Corporis episcoporum frequentius et habituale reddat, saltem mediant novo organo, quod sincere corpus episcoporum repraesentet, dummodotria principia firma remaneant (...).

"Non est ista novitas, sed consequentia practica plene congruens cum praxi confirmata a traditione antiquissima et non interrupta usque ad saec. XVI.

"Jam saec. IV et V consilia maioris momenti ab episcopo Urbis capiuntur, *ut dicitur*, in "conventu fratrum". Cum, post crisis saec. X, Papatu resurget vere liber ab omni politica potestate, organum habituale ipsius auctoritatis super totam Ecclesiam Sacrum Consistorium, quod a saec. XII ter in hebdomada se congregat. Omnes Pontificum decisiones maiores non dantur nisi obsignatae ab omnibus membris Sacri Collegii" (Cardinal LERCARO, Archbishop of Bologna, */IS II*, vol. IV, p. 619).

34 Archbishop VAN DER BURGT of Pontianak, speaking in the name of 30 bishops of Indonesia (*AS II*, vol. IV, p. 592). The prelate proposes the immediate establishment of a central body, or senate, or College *ita ut pars (probabiliter non parva) materiarum, quae nunc Concilio proponuntur ab ipso senatu tractari possint et multi ex nobis non per longissimum tempus ab ovibus separantur, cum periculo ut omnes Romani fiant*(*Ibid.*, p. 593).

need to associate it continuously with the government of the universal Church. He advocates the establishment of a central body composed of bishops from all over the world, representing the College of Bishops whole. This group would constitute the *true Sacred College*,

It seems to me that this way of limiting the collaboration of the Catholic episcopate the central government of the Church to the Roman Curia responds neither to the real needs of the Church in our time nor to the collegial responsibility of the episcopate to the Church.

propose a new solution which seems to me to be more in keeping with the requirements of our time and with the holy theological principles (...)

It goes without saying that not all the bishops of the world can be constantly assembled in Council. It is to a small group of Bishops representing their colleagues that the concrete task of assisting the Pope in the general government of the Church should belong. It is this group that could form the true Sacred College of the universal Church. It would include the principal bishops of the Church. These would be, first, the residential and apostolic Patriarchs, as recognized by the Ecumenical Councils of the early centuries; second, the Cardinal Archbishops or Bishops, in the capacity of their Cathedrals, not in the capacity of a parish in Rome; and third, Bishops chosen from the Episcopal Conferences of each country. This last suggestion should be used to develop it. This universal Sacred College could be convoked by the Pope at fixed times and when the need arises to discuss the general affairs of the Church³⁵.

It is certain that this intervention caused a sensation in the conciliar aula, but Patriarch Maximos did not stop there. For him, it was necessary to institute in Rome a kind of permanent Synod, in the manner of what the Eastern Church calls the "Synodos endimousa", a kind of supreme executive and decisive council, composed of a few members of the previous group, to which all the Roman offices would be subject³⁶.

35 Patriarch MAXIMOS IV *of the Melchites*, AS II, vol. IV, pp. 517-518.

36 "But *naturally* this is not enough. There should be constantly in Rome what the Eastern Church calls the 'Synodos endimousa', that is to say, a few members of this Sacred Apostolic and Universal College taking turns to be at the side of the Pope, their Head, who always has, by primatial right, the last word. This will be the Supreme Council of the Church, "the *Suprema*", the Supreme Executive and Decisive Council of the Universal Church. All Roman offices must be subject to it. This *Suprema* will have its own special regulations concerning its constitution. It will radiate Christ throughout the whole world, especially the pagan world. Not being stuck in a closed centre, it will not even think of wanting to monopolize everything, to regulate everything, to rule everything, in a uniform and sometimes fussy manner. It will understand that *the problems of the peoples must be solved by themselves or with themselves, but never without themselves*" (Patriarch MAXIMOS IV *of the Melchites*, AS II, vol. IV, pp. 518-519).

Taking into account the fact that the invitation addressed by Pope Paul VI in the addresses of 21 and 29 September 1963 and that of 4 December³⁷ at the close of the second session, following the abundant remarks of the Council Fathers mentioned above, the *De Episcopis* Commission drew up a new text entitled *De pastorali Episcoporum munere in Ecclesia*. This outline was approved by the Pope on April 27, 1964, to serve as a basis for discussionthird conciliar session

This outline explicitly called for the establishment of a *central concilium* in response to the many *voti* expressed by the Fathersparagraph 5 of the outline speaks of a special form of collaboration of the members of the College in the personal exercise of *potestas jurisdictionis* of the Roman Pontiff:

"5 [*cætus seu Concilium Centrale*]. Since in our day the universal office of the Roman Pontiff requires greater help and assistance, the Fathers of the Council earnestly desire that certain Bishops from various parts of the world should give more effective assistance to the Supreme Pastor of the Church, according to modes and rules which it is, however, up to the Supreme Pontiff to lay down in a suitable manner, even if it means, if he so pleases these Bishops should meet in the form of an organism or a council; the participation of all the bishops in the concern for the universal Church would become even more evident*³⁸ .

This text appears to be prudently measured so as not to detract in any way from the supreme authority of the Supreme Pontiff and the prerogatives inherent in his office. But it does not resolve the question of the relationship between the proposed Concilium and the College of Bishops; it merely states that the *coetus* or *concilium* is a sign of the participation of the bishops in the care of the universal Church. The official *relatio* that accompanied it was no less ambiguous, for it did not specify whether the participants in this *concilium* would exercise a properly episcopal function (solicitude of the bishops for the universal Church) or whether they would participate in the personal ministry of the Pope³⁹ .

37 "This post-conciliar work will give its full value to the collaboration We expect from the episcopate... Naturally We shall be pleased to choose from the ranks of the episcopate *throughout the world* and from religious orders... distinguished and competent brothers. Together with qualified members of the Sacred College, they will give Us help and advice in translating into suitable and detailed rules the general decisions of the Council. Thus, without in any way impairing the power of the Roman Pontiff, as defined by the first Vatican Council, experience and practice will show Us, with the help of Divine Providence, how to render more effective in the future the cordial and devoted cooperation of the bishops in the service of the universal Church" (PAUL VI, *Discourse at the Closing of the Second Session of the Council*, December 4, 1963, in *Catholic Documentation* 1414 [1964], p. 4).

38 AS III, vol. II, pp. 23-24.

39 The *Relatio circa rationem qua schema elaboratum* is said thus: "Caput primum quod inscribitur *De Episcopis quoad universam Ecclesiam*, in duos articulos dividitur, in quorum priore considerantur partes quas habent Episcopi pro tota Ecclesia sive quatenus

Finally, this text, after having been subjected to a brief conciliar discussion, and having been criticized by several Fathers who had sent written remarks to the commission *de episcopis*, underwent some modifications as a result of the evolution of the major text *Lumen Gentium*, which served as its prior theological foundation. The Council Fathers therefore received a new version of the outline on October 30, 1964, on which they were finally to vote. Paragraph 5 underwent two minimal changes⁴⁰ to take the following form:

"5 [*cætus seu Consilium Centrale*]. Since in our day the universal office of the Roman Pontiff requires greater help and assistance, the Fathers of the Council earnestly desire that certain bishops from various parts of the world should give more effective assistance to the Supreme Pastor of the Church, according to modes and rules which it is, however, up to *the Pope* to determine in an opportune manner, even if it means that these bishops should meet in the form of an organism or councilway the participation of all the bishops in the care of the universal Church would become even more evident⁴¹ .

These changes did not add anything to the clarification of the relationship between the proposed *Council* and the College of Bishops, but the accompanying *Relatio* made clear the meaning the Commission attributed to the text:

The Central Council, moreover, is not a true representation of the College of Bishops but, in a way, only a sign of it; and it exists only to assist the Supreme Pontiff in the government of the universal Church⁴² .

"The amendments proposed by several Fathers were accepted by our Commission, only in the sense that the Central Council is a sign of the participation of the College of Bishops in the care of the universal Church, but not, as some Fathers wished, in the sense that the Council is an exercise of the *munus* proper to the College of Bishops"⁴³ .

The text was put to the vote, at the 124^o™ General Congregation, on November 4, 1964. Paragraph 5, voted together with numbers 6 and 7,

omnes una cum Romano Pontifice supremam ac plenam potestatem exercent, sive quatenus aliqui - si Summo Pontifici placuerit - in quoddam Consilium Centrale conveniunt, sive quatenus singuli cum aliis Collegii membris cooperantur in sollicitudine omnium Ecclesiarum " .

40 See AS III, vol. VI, pp. 121-122. The commission added the words *ab Ipso* (i.e. by the Pope) to the ablative absolute *modis et rationis opportune statuendis*, and to avoid repetition, deleted the conditional clause *si eidem Summo Pontifici placuerit*. The *relatio* which justifies these changes calls them *parva mutatio in textu* (*Ibid.*, p. 127).

41/1S III, vol. VI, pp. 121-122.

42 *Ibid.*, p. 127.

43 *Ibid.* at 131.

obtained 1912 *placet* against 81 *not placed* and 3 no votes. But since the entire chapter did not pass the required two-thirds majority, the text was again sent back to the Commission for revision. The *amendments* expressed by the Fathers concerning the paragraph which we are concerned were not numerous or very important. Twenty-five Fathers asked that *exoptant* (wish) be replaced by the word *decernunt* (decide), so as to make it *clearer that in an Ecumenical Council the Fathers are one and the same entity*⁴⁴. Seven Fathers requested that the members of the *Concilium* should include all the Patriarchs *ex officio*⁴⁵. None of these proposals was accepted by the commission in virtue of the rule: *It is for the Roman Pontiff alone to determine the Members of the Central Council or body, which he himself prefers to choose, whether Patriarchs, Archbishops, or Bishops*⁴¹.

The new amended text⁴⁶ during the intersessional period was presented again in the aula on 16 September 1965.

Finally, at the end of the inaugural address of the last session of the Council, on 14 September 1965, the Pope himself announced the institution of the Synod of Bishops in Paula conciliar, presenting it as a response to the wishes of the Council assembly, without concealing his personal joy at the step that was about to be taken⁴⁷.

In response to this act of the Holy Father, which introduced into the life of the Church the new institution of the Synod of Bishops, paragraph 5 of the outline was deemed unnecessary, since the request now complete. The text of this paragraph was then newly drafted. In this text the Council merely acknowledges the existence of the Synod of Bishops and emphasizes its significance by referring to the terms of the *Motu proprio Nposzolica soUicitudi* :

" 5. 5. Bishops chosen from the various parts of the world, according to rules and modes fixed or to be fixed by the Roman

44 AS IV, vol. II, p. 523.

45 *Ibid*, p. 523

46 The commission reintroduced the clause *si Eidem (Romano Pontifici) placuerit*, which it had previously judged to be a repetition, and changed the construction of the sentence: *significari possit omnium Episcoporum universa Ecclesia sollicitudini participati* means of an infinitive proposition: *significari possit omnes Episcopos sollicitudini universa Ecclesia participes esse*

47 "Deinde Nosmetipsi, vobis iam praenuntiare gaudeamus. Episcoporum Synodum, secundum hujus Concilii optata et vota, mox constitutum iri; (...) ean- demque Romanus Pontifex convocabit pro Ecclesiae necessitatibus, ut Sacrorum Pastorum consilio et opera adjuvetur, quotiescumque ad commune Ecclesiae bonum et utilitatem id Ipsi opportunum visum fuerit. Supervacaneum addere censamus, hujusmodi auxiliatricem operam sacrorum Antistitum oportere plurimum cedit in bonum Sanctae Sedis et universae Ecclesiae, peculiarique modo prosit cotidianis laboribus Romanae Curiae... Nos vero carere nolumus honore et gaudio haec brevite vobiscum communicandi, ut Nosmetipsi rursus vobis significaremus Nostram fiduciam, Nostram fraternam conjunctionem"(PAULVI, AS IV, vol. I, p. 134).

Pontiff, provide more effective assistance to the Supreme Pastor of the Church, in the form of a Council, the proper name of which is the Synod of Bishops; this, while representing the whole of the Catholic episcopate, signifies at the same time that all the Bishops participate in hierarchical communion in the care of the universal Church*⁴⁸.

When this paragraph was voted on one last time in the conciliar assembly, it obtained, out of a total of 2182 voters, 2171 *placez*, against 8 *non placez* and 2 *placez juxta nodum*.

This text of Vatican II takes up word for word certain expressions of the *Mozu Proprio* which preceded it and clearly brings out the two elements which characterize the Synod of Bishops: it represents the Catholic episcopate of the whole world (*zozius catholici Episcopatus partes agens*); at the same time, it is the sign that all the bishops take part in a hierarchical communion in the concern of the universal Church (*significat omnes Episcopos in hierarchica communione sollicitudinis universa Ecclesia participes esse*)

n - ERECTION OF THE SYNOD OF BISHOPS - MOTU PROPRIO APOSTOLICA SOLLICITUDO

II - 1. institution of the Synod of Bishops

On 15 September 1965, at the beginning of the 125th General Congregation, Archbishop Felici, the General Secretary of the Council, announced the promulgation of the *Motu proprio Apostolica sollicitudo*⁴⁹ - which established the institution of the Synod of Bishops⁵⁰. The document

48 This text is none other than paragraph 5 of the decree *Christus Dominus*, solemnly approved by the Pope on 28 October 1965.

49 PAUL VI, *Motu proprio Apostolica Sollicitudo*, 15 September 1965, in *Æ* 45 57 (1965), pp. 775-780.

50 Unfortunately, we have no documentation on the intimate reasons that determined Pope Paul VI to intervene directly to publish the *Motu proprio* in this final period of the Council, as the Vatican archives of this period are not yet available for consultation. As A. Garuti rightly points out: "Il rimpianto per l'impossibilità di disporre della documentazione inedita a questo punto appare ancora più evidente. With the data in possession, it is possible to highlight the explicit will of the Pope to respect the conciliar decisions, leaving the greatest freedom of expression, and the effective non-involvement of Pope" (AGARUTI, *Origine e natura del Sinodo dei Vescovi: un'intuizione di Paolo VI in Paolo VI e la collegialità episcopale, Colloquio internazionale di studio [Brescia, 25-27 settembre 1992]*, Brescia, 1995, p. 86)

It should be noted that the Pope's will was not to intervene directly in the conciliar work, as he had affirmed, for example, to the Italian episcopal assembly during the meeting of April 14, 1964: "We are proposing to intervene in this phase of the conciliar work in the

emanating from the Pope himself included an introduction and 12 paragraphs dealing respectively with the constitution, the nature, the composition of the Synod, its relationship with the authority of the Supreme Pontiff, the various types of meetings, etc.

During the same General Congregation, attended by Pope Paul VI, Cardinal Marella, President of the Commission *de episcopis*, briefly presented the *Motu proprio* before it was read in the assembly by the General Secretary:

In this way, the government of the Church is enriched with a new and very suitable and effective instrument, especially in these troubled and difficult times; in this way the august Pontiff will be able to be directly informed of certain matters, to know the opinion of the Bishops and to have recourse to their wise counsel in the fulfillment of his apostolic office with regard to the universal Church

"But I would like to draw your attention in particular to that heavy and very important responsibility, attributed in the *Motu Proprio* to the Bishops' Conferences, namely the choice of the bishops who participate in the various assemblies of the Synod of Bishops"⁵¹.

Cardinal Marella explains both how the task of the Supreme Pontiff is facilitated by this assembly of bishops gathered to give advice and opinions; on the other hand, he insists very clearly on the mode of delegation and representation enjoyed by the episcopal conferences in this Synod

Some authors consider the institution of the Synod of Bishops as a strictly personal decision of the Pope and therefore as a pure creation of the primatial power. Thus, according to P. Colella⁵², the Pope not only decided personally create a new organism, but he also wanted the institution of the Synod to precede the approval of the decree *Christus Dominus*, which was to speak of this Synod of Bishops in paragraph 5, as we have already seen.

matter of the decrees which will be discussed at the renewal of the Council. We therefore wanted to continue along the practical line that we prefer, that of leaving the conciliar Padri, and with them the various Episcopal Conferences and the Council Commissions, ample freedom of discussion and expression. This was a dominant note of this great Council; we wish to remain faithful to it" (PAUL VI, *Address to the Plenary Assembly of the Italian Episcopate*, 14 April 1964, in *Insegnamenti* II 1964, p. 246).

⁵¹ IV, vol. I, p. 141.

⁵² COLELLA, *Collegialità episcopale e Sinodo dei Vescovi*, in *La Chiesa dopo il Concilio*, Giuffrè ed., Milan, 1972, v. 2, p. 346. The same author writes in a note on the same page that "si tenga presente che Paolo VI emanò il *Motu proprio* "Apostolica Sollicitudo" il 15 settembre 1965 mentre era in corso la discussione generale sul decreto *Christus Dominus* which was approved by the Council only at the end of the month and which, in turn, led the Patriarchs to discuss the characteristics of the new organ of collaboration of the Vescovites with the Pope which had been requested before and by more parties*"

As for Y. Congar is no less critical and also deplores the fact that this creation of the Synod of Bishops is an emanation of the primatial power⁵³. Even more disappointed is L.

Kaufmann, who believes that Paul VI did not take into account the grievances of the Council and allowed himself to be led back to a unilateral form of government by the exercise of his primatial *potestas*⁵⁴. Adriano Garuti maintains that the paternity of the Synod is to be attributed absolutely to Paul VI⁵⁵.

The fact remains that the institution of the Synod, even if de facto it was the result of a personal decision of the Pope, as the expression *Motu proprio* implies, is the fruit of a long maturation that began before the Council and continued during the conciliar debates⁵⁶ on the occasion of the elaboration of the texts of *Lumen Gentium* and *Christus Dominus*⁵⁷. Pope

53 Y. CONGAR, *Sinodo, primato e collegialità* in V. FAGIOLO & G. CONCUÌ ri, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, p. 45: - A Roma non lasciarsi mai determinare, e ancora plus non dettare disposizioni che tocchino l'esercizio del primato è un assioma. For this reason, after having initiated the work in the sense of the Gospel of the Vescovites, in his speech to the members of the Curia on 21 September 1963 and in his speech at the opening of the second period of the Council, Paolo VI formally decided on the establishment of this Holy Spirit and established nature, competence and composition, before the final presentation and voting of the decree *Christus Dominus* which was to speak (...). Thus this initiative showed that the God was a creation of the primordial power".

54 72: "In practice, in all the years the issue was still what Pope Paul VI had made of the suggestions put forward at the council, how he took them into his own rule and reshaped them accordingly: the Synod of Bishops might not grow out of the Council, might not come into being by a resolve of the Council and thus by a collegial act *par excellence*, but must one-sidedly be derived from the *Motu proprio* of the power of the papal primacy". The author continues with a certain irony: "Thus there was no conception nor birth, but the won] of the Council was good enough to note, in *Christus Dominus* (On the Pastoral Office of Bishops in the Church, no. 4), that there was something called the Synod of the Bishops, though this was simply a Council in which chosen bishops gave the Supreme Pastor more effective service".

55 A. GARUTI, *Origine e natura del Sinodo dei Vescovi: un'intuizione di Paolo VI in Paolo VI e la collegialità episcopale*. Colloquio internazionale di studio (Brescia, 25-27 September 1992), Brescia, 1995, p. 80: "However, the connection between the Council and the institution of the Holy Spirit has been and continues to be sottolined, and I personally believe that the paternity of the Holy Spirit should be attributed to Pope Paul VI".

56 For R. Laurentin, the Synod can be defined as the fruit of the Council and more precisely of the dialogue between the Pope and the other bishops (R. LAURENTIN, *L'Enjeu du Synode*, Editions du Seuil, Paris 1967, p. 107).

57 For a brief synthesis and evaluation of the various proposals made by the bishops concerning this Synod during the pre-conciliar and conciliar periods, the following authors can be cited V. FAGIOLO, *Il Synodus Episcoporum: origine, natura, struttura, compiti*, in V. FAGIOLO & G. CONCEVO, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Florence, 1969; CAPRILE, *Il Sinodo dei Vescovi, Prima assemblea generale (29 settembre-29 ottobre 1967)*, Edizioni "la Civiltà Cattolica", Roma 1968; A. FERNÁNDEZ, *Nuevas estructuras de la Iglesia*, Ediciones Aldecoa, Burgos, 1980, pp. 260-

Paul VI, speaking on the occasion of the inauguration of the Synod of Bishops in 1967, made it clear that the Council was the generating principle of the Synod of Bishops:

"In this connection We have declared that this new organism of the visible government of the Church is to be related to the recent Council as well as to its forthcoming principle: it was during the Council that We created it, and it was practically born of the Council"⁵⁰

While we reserve the right to analyze in detail the function, purpose, and nature of the Synod of Bishops and its theological qualification in the context of collegiality in the following chapters, in this presentation of the *Motu proprio* we will limit ourselves to the circumstances alleged by the Pope that motivated its institution, to the choice of the name attributed to this new institution, and to the structure of the Synod as foreseen in the general norms of the *Motu proprio*.

The circumstances of the institution of the Synod of Bishops

The *Motu Proprio* states among the reasons for the creation of the Synod of Bishops, three main ones:

- The Pope's duty as Supreme Pontiff to carry out his personal mission as universal pastor, which is perfectly captured in the expression *Apostolica sollicitudo... Nos impellit* (Our apostolic solicitude... impels us)⁵⁸.

- Listening to and discerning the *signa temporum* (signs of the times)⁵⁹, with the desire to adapt the means to the needs of the moment.

The Church always seeks to present and spread her message in a concrete historical context. Even if the structure of the Church is embodied in specific historical situations, it is clear that some elements are immutable and form part of the divine constitution of the Church, while others are subject to more or less profound changes. For this reason it is necessary to examine the signs of the times, that is, to examine the present needs of the Church in the light of the Holy Spirit and to seek, in the same light, the best possible way to respond to them. The postulates of the signs of the times vary greatly

261; A. FERNÁNDEZ, *El Sinodo de los obispos y la colegialidad episcopal* in *Scripta theologica* 1 (1969), pp. 404-420; A. GARUTI, *Origine e natura del Sinodo dei Vescovi: un'intuizione di Paolo VI in Paolo VI e la collegialità episcopale, Colloquio internazionale di studio (Brescia, 25-27 September 1992)*, Brescia, 1995, pp. 80-82; and above all J. I. ARIUHA, *El Sinodo de los obispos*, Ediciones EUNSA, Pamplona, 1987, pp. 41-136.

⁵⁸ *Apostolica Sollicitudo*, 15 September 1965, in *AAS* 57 (1965), p. 775.

⁵⁹ Cf. *Ibid.*, p. 775: "Apostolica sollicitudo, qua signa temporum attente - perscrutans vias ac relationes sacri apostolatus increbrescentibus nostrorum dierum necessitatibus mutatisque societatis condicionibus aptare contendimus (...)".

from one country to another or from one era to another; therefore, the practical responses to the problems are necessarily quite diverse insofar as they must be adapted to concrete situations many reasons of a theological, pastoral, sociological and even ecumenical nature which encourage the Pope today to benefit more from the cooperation and participation of the Bishops pastoral care of whole Church

The Pope himself has been able to see, in the ordinary fulfillment of his office and in the special experience of the Council, that the union and cooperation of the Supreme Pontiff and the Bishops are very useful for the fulfillment of the apostolic task. The context clearly shows that this is an existential necessity and not a juridical or even theological one.

- The desires expressed by many Council Fathers during the debates on the drafting of the constitution *Lumen Gentium* and the decree *Christus Dominus* also played a role in the Pope's decision. Paul VI himself acknowledges this:

Now that We are approaching the end of the Second Vatican Ecumenical Council, it seems to Us that the time has come to carry out this long-decided project. And We do so all the more willingly because We know clearly how much the bishops of the Catholic world are in favour of Our resolution, as is shown by the many wishes they expressed on this subject during the Council"⁶⁰. It is fair to say, with Cardinal Rubin, *that Paul VI has the great merit of having been able to accept the desire, formulated by the Council, to institute an organism which would be, close to the Pope and under his direction, concrete expression of episcopal collegiality*⁶⁴.

II - 3 The choice of the name *Synod* for the new institution

Synod, in Greek, *συνοδος*, generally means an ecclesiastical gathering; often this word is used to designate not only Councils, but also other meetings, such as episcopal conferences, the permanent assembly of the Patriarch and the bishops of his patriarchate is worth recalling that, as early as the fourth century, certain resident bishops, holders of a more important see, used to gather the bishops present in their city when more serious problems arose, in order to decide together on the decisions to be taken. Thus, little by little, in the city of Constantinople, the *ednhmoussa* or domestic synod was formed, which met regularly, bringing together the bishops present in the imperial city. This Synod exercised with the Patriarch the threefold power ^legislative, judicial and administrative. An institution of this kind is found in the other Eastern patriarchates. After the separation from Rome, the Patriarchs, together with their permanent Synod, are considered the supreme authority, apart from a patriarchal or ecumenical

⁶⁰ *Ibid.* at 776.

council⁶¹. With regard to the Eastern Patriarchates united to Rome, Pius XII issued norms which regulate their permanent Synods. These Synods to be composed of five members, namely the Patriarch, assisted by the two most senior resident bishops by reason of their episcopal ordination, and two other bishops, one chosen by the Patriarch and the other elected for five years by the bishops of the Patriarchate. In 1990, new canonical provisions modified the composition of the Ednhmousa Synod, which is now composed of three elected bishops in addition to the Patriarch, instead of one, and of one bishop appointed by the Patriarch⁶².

In the Latin language, the term *synodum* is used mainly to indicate the diocesan synod, while the word *concilium* is used to designate solemn meetings of bishops, such as Ecumenical Councils, national councils, provincial or regional councils⁶³.

The name Synod of Bishops was given by analogy with the diocesan synod⁶⁴, apparently because of essentially consultative function of the new body. In the diocesan synod, in fact, the bishop is the sole legislator, while the other members have only an advisory role. The members of the Synod of Bishops usually have only consultative power, as we shall see later⁶⁵.

In any case, the word Synod is sufficiently general and traditional, even in the case of an assembly or an Ecumenical Council, to be fully justified in this case without recourse to a particular reason⁶⁶.

Moreover, in the post-conciliar context of attempts at ecumenical rapprochement with the separated brethren, the choice of the word Synod, which etymologically means: to go on the road (odo) together (sun), seems to be more than a coincidence and is likely to facilitate a re-

61 J. HAJJAK, *La collégialité épiscopale dans la tradition orientale*, in *L'Eglise de Vatican II*, Unam Sanctam 51c, Les Éditions du Cerf, Paris, 1966, pp. 847-861.

62 CCEO (1990), Can. 115.

63 C. DE CLERCQ, de *Synodo Episcoporum*, in *Apollinaris* 38 (1965), pp. 212-214.

64 This is what V. Ferrara thinks so when he says that the Pope "chose the term *Sinodo* as the name of the new institution because of the obvious analogy between this and the Diocesan Sinodo in which the sole legislator is the Vescovo and the other members have only consultative vote as stated in can. 362 of the *CIC* (1917)" (V. Ferrara, *H Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 [1969], p. 502). (V. FERRARA, *H Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 [1969], p. 502). Cf. also C. BERUM, *Adnotationes in Litteris Apostolicis * Apostolica sollicitudo * Pauli VI*, in *Monitor ecclesiasticus* 90 (1965), p. 535.

65 Cf. *Apostolica sollicitudo*, paragraph II of the norms, in AAS 57 [1965], p. 776.

66 For C. For C. Lefebvre, "the term *Council* could only be excluded and that of *council* did not seem sufficiently high to designate an institution of this importance" (C. LEFEBVRE, *Chronicle of the Acts of the Holy See, the Synod of Bishops, in the Canonical Year* 11 [1967], p. 123).

establishment of relations with the Christian East⁶⁷.

II - Summary presentation of the Synod of Bishops according to *Apostolica sollicitudo*. Structure and functioning of the Synod of Bishops

In establishing the Synod of Bishops, Paul VI wished to provide the Church with a permanent council of bishops, directly and immediately subject to the primatial power by which the bishops whole world provide the Supreme Pastor of the Church with effective assistance, and he specified the general norms⁶⁸.

The general norms governing the Synod are presented in twelve points; they deal mainly with the nature, purpose, and authority which the Synod is subject, with the different modes of celebration of the assemblies and their composition; they also deal with the requirements for the election of members, and with the termination of offices and functions at the end of the concluding assembly

According to 1^{er} paragraph of the norms, this Synod has four main features:

The Synod of Bishops, in which bishops chosen from the various countries of the world provide effective assistance to the Supreme Pastor of the Church, will be constituted in such a way that it will be: a) a central ecclesiastical body; b) representative of the entire Catholic episcopate; c) of a perpetual character; d) of such a structure that its function will be exercised in a temporary and occasional manner⁶⁹.

It is, therefore, above all, a central ecclesiastical body, that is to say, one that refers to the See of Peter as its centre and whose role influences the whole Church, which distinguishes it from an assembly of bishops from the same region or country. As for its ecclesiastical character, this is related to the ecclesiastical quality of its members, religious, priests and, for the

67 R. LAURENTIN, *Post-concilio e Sinodo episcopale*, in *Quad. Di Ricerca*, 8 sotto il Monte, 1967, p. 142.

68 "Ut iisdem (episcopis) copia detur manifestiore efficacioreque ratione participandi sollicitudinem Nostram erga Ecclesiam universam, motu^{pr} ^{an} ?; ⁵ Nostra apostolica auctoritate erigimus ac constituimus hac in alma Urbe sta i e pi scoporum consilium pro Ecclesia universa, Nostrae potestati directe atque imm diate subiectum, quod nomine proprio SYNODUM EPISCOPORUM appellamus" (*pos lolica sollicitudo*, AAS 57 [1965], p. 776)

69 *Apostolica sollicitudo*, in AAS 57 (1965), p. 776.

most part, bishops⁷⁰. It should be noted that the laity are not members of the Synod. This is quite understandable insofar as it is an ecclesiastical organism which closely touches the supreme government of the Church which, *of divine institution, has not been entrusted to the laity but to the sacred hierarchy*¹⁵.

This Synod represents the entire Catholic episcopate. We shall have occasion to return in the next chapter to the kind of representation which the Synod of Bishops constitutes in relation to the world episcopate, and we shall see the doctrinal debate which opens up on this subject. Let us simply point out that the episcopates of the world send delegates to the Synod.

This Synod is of a permanent nature: that is to say, it is now part of the usual structures of the Church, like the Ecumenical Councils, the General and Provincial Councils, and the Diocesan Synods. Like the College of Cardinals, it is of ecclesiastical and not divine institution, but by the will of the authority that erects it, it is destined to last. The Synod has a permanent Secretary General, whose office is not intermittent, and who is appointed by the Supreme Pontiff⁷¹.

Although it is permanent in nature, it is not, however, permanently or continuously in action, but carries out its activities in a transitory and occasional manner⁷². It is convoked by the Supreme Pontiff whenever he deems it opportune⁷³.

⁷⁰ V. Ferrara derives the ecclesiastical character of the Synod "not only from the moral personality of this Synod within the framework of the universal Church, but also from the physical person of the individuals (bishops and clerics) who compose it" (V. FERRARA, *Il Sinodo dei Vescovi: ira ipotese e realtà, in Apollinaris* 52 [1969], p. 503). And for him, the central character of the Synod "does not lie so much in the obvious relationship with the location of its institution in the eternal city near the Apostolic See, but rather in the distinction of this Synod from any other particular organism: this kind of grouping together several bishops and clerics, already existing, or which may be instituted in the future, for one or more regions or nations" (*Ibid.*, p. 503).

⁷¹ In n. XII of the general norms, *Apostolica Sollicitudo* specifies: "Synodus Episcoporum habet secretarium perpetuum seu generalem, cui congruus adiutorium numerus destinatur" (*Apostolica Sollicitudo* XII, 15 September 1965, in *ÆS* 57 [1965], p. 780).

⁷² Cf. *Apostolica sollicitudo* I: "quoad structuram, ad tempus atque ex occasione munere suo perfringens" (*Ibid.*, p. 776).

⁷³ Cf. *Apostolica sollicitudo* III, 1: "cuius (Summi Pontificis) erit: 1) convocare Synodum, quotiescumque id ipsi opportunum visum erit..." (*Ibid.*, p. 777).

During the Extraordinary Synod of 1969, the principle of a biennial convocation for the ordinary assemblies of the Synod of Bishops was voted by the Synod Fathers and accepted by the Pope. Practical requirements, such as adequate preparation in a too short interval, the implementation in the local Churches of the decisions of the previous Synod while the preparations for the next Synod were becoming urgent, and the pastoral and economic disadvantages due to the repeated absence of bishops, led to an extension of the time limit, which was later extended to three years: the synodal assembly of 1974 voted by a large majority for a three-year period for ordinary synods (cf. GCAPRILE, *Il Sinodo*

The function of the Synod, according to the general norm II of the *Motu proprio*, is primarily consultative, and this is its function *suapte natura*, that is, by its very nature. However, there remains the possibility-attributing to it, exceptionally, a deliberative power, only if the Pope so decides, but it is still up to the Pope, even in this case, to ratify the decisions taken by the assembly⁷⁴. It is not our intention now to enter into discussions on the theological nature of such deliberative acts, but we can see the extent of the debate in relation to the quality of the representation of the world episcopate by the members of the Synod.

The *Motu proprio* then sets out the general and special purposes of the Synod of Bishops. Among the first, it notes: the strengthening of ties and collaboration between the Supreme Pontiff and the Bishops of the whole world, and the provision of direct and accurate information on problems and situations of great importance for the life and action of the Church in the world today. It also mentions the harmonization of opinions regarding the essential points of doctrine and the means of action in the life of the Church. Among the special purposes it lists: the useful exchange of information, the giving of appropriate advice on matters which are the very object of the convocation of the Synod.

The prerogatives of the Pope, to whose authority the Synod of Bishops remains directly and immediately subject⁷⁵, are listed in n. IV of the general norms. The Supreme Pontiff retains his full primacy of authority, which he exercises, according to his own judgement, both before, during and after the Synod. The functioning of the Synod, in the manner of an Ecumenical Council, implies not only the participation of the Pope but also his approval of each of its phases⁷⁶.

The other general norms laid down by the *Motu Proprio* in paragraphs V to X deal with the composition of synodical assemblies, general, special and general meetings, and the method of election of each of their participants⁷⁷.

dei Vescovi, Terza assemblea generale [27 settembre-26 ottobre 1974], Edizioni "la Civiltà Cattolica", Roma 1975, p. 667).

74 Cf. *Apostólica sollicitudo* II, in AAS 57 (1965), pp. 776-777.

75 "Synodus Episcoporum directe et immediate subest auctoritati Romani Pontificis" (*Apostólica sollicitudo* III, in AAS 57 [1965], p. 777).

76 The role and function attributed to the Pope in the conduct of a Synod is judged by an author such as Father Laurentin as exorbitant. He considers that the *Synod was established under restrictive, irresponsible and subordinate conditions* (R. LAURENTIN, *Synod and Curia in Concilium* 145 [1979], p. 117). He sees a *flagrant contradiction between the fundamental structure of the Synod and the restrictive framework of its regulation and effective functioning*.

77 General Assemblies may be considered the ordinary synodal form, not only because they are broadly representative of the world's episcopate, but also because of the almost regular rhythm of their convocation. They are convoked when the importance and nature of the matter under discussion suggest that the whole episcopate should be consulted. The

It should also be noted that, according to the provisions, ten religious, elected by the Roman Union of Superiors General, participate as members of the synodal general assemblies; this number is reduced to three in the case of extraordinary assemblies⁷⁸. This minimal contribution of members who do not belong to the College of Bishops does not alter the essentially episcopal character of the Synod of Bishops. It was also customary that, with the consent of the Pope, certain abbots and bishops not yet ordained could take part in the deliberations of Ecumenical Councils.

III - THE ORDO SYNODI EPISCOPORUM CELEBRANDA

If the *Motu Proprio Apostolica Sollicitudo* determines in the general norms the nature and essential function of the Synod, it is also necessary to take into account the official texts which determine the precise regulations

extraordinary assemblies, although composed of each of the presidents of the episcopal conferences, *rarione officiate*, are much smaller and less representative. They are convened when the issues to be dealt with require a rapid solution. The special assemblies concern well-defined geographical areas. They are convoked when the matter to be dealt with concerns one or more particular regions.

Since the institution of the Synod of Bishops in 1965, more than 10 General Synods, 2 Extraordinary Synods and 8 Special Synods

The General Synods are respectively those of:

1967 (September 29-October 29): various problems.

1971 (September 30-November 6): priesthood-justice.

1974 (September 27-October 26): Evangelization.

1977 (30 September-29 October): Catechesis.

1980 (September 26-October 25): the Christian family.

1983 (September 29-October 29): reconciliation and penance.

1987 (October 1-30): the laity in the Church and in the world.

1990 (30 September-27 October): the formation of priests in the present circumstances

1994 (October 2-30): Consecrated life and its mission in the world.

2001 (30 September - 27 October): The Bishop as servant of the Gospel of Jesus Christ for the hope of the world.

The Extraordinary Synods are respectively those of:

1969 (11-28 October): *Holy See* and Episcopal Conferences.

1985 (November 24-December 8): the Second Vatican Council, twenty years later.

The Special Synods are respectively those of:

1980 (14 January-31 January): Special Assembly for the Netherlands.

1991 (28 November-14 December): Special Assembly for Europe.

1994 (10 April-8 May): Special Assembly for Africa.

1995 (26 November-14 December): Special Assembly for Lebanon

1997 (16 November-12 December): Special Assembly for America.

1998 (April 18-May 14): Special Assembly for Asia.

1998 (22 November-12 December): Special Assembly for Oceania.

1999 (1-23 October): Special Assembly for Europe.

78 Cf. *Apostolica sollicitudo* n. V and VI, in AAS 57 (1965), pp. 777-778.

and the internal dynamism of the Synod of Bishops fact, in anticipation of the General Synod of 1967, the Secretariat of State issued a regulation on December 8, 1966, clarifying and specifying the general norms of the Synod set forth in the *Motu proprio Apostolica sollicitudo*⁷⁹. In fact, this regulation was revised, and we will speak of this again later

III - 1 Structure and content of the 1966 Regulation

The text published in 1966 is divided into three parts, 23 chapters with a total of 37 articles. In the successive revisions of 1969 and 1971, the structure remained the same. Only one chapter (chapter 9 in the first part), four articles and some paragraphs were added.

The first part, which consists of 8 chapters and 14 articles, deals with the supreme authority that regulates the activity of the Synod, the persons who participate in the Synod and the manner in which they act.

The synodal assembly depends directly and immediately on the Supreme Pontiff. Taking up paragraph III of the general norms, the regulation recalls that it is the Pope who convokes and fixes the place of synodal assemblies; it is his responsibility to

84. *Ordo Synodi Episcoporum celebranda*, AAS 59 (1967), pp. 91-103.

Pope Paul VI had announced on 18 November 1965 that the first Synod of Bishops would take place in 1967, and it was therefore necessary to speed up its preparation. For this reason, in July 1966, he entrusted a commission presided over by Bishop Felici and composed of Bishop A. Marchioni, Bishop V. Carbone, Bishop V. Fagiolo, and Bishop G. Abbo, with the task of drawing up a draft regulation for the Synod of Bishops. This draft was definitively approved on 8 December 1966 and gave rise to the regulations we know today. On 23 December 1966 the Pope was able to announce the date of the opening of the first synodal assembly, set for 29 September 1967.

85. We call this regulation: *Ordo Synodi Episcoporum celebranda*.

to ratify the election of its members, to define the matters to be dealt with and the agenda, to preside over the meetings by itself or by means of delegated presidents, and to decide according to the votes cast⁷⁹.

In articles 2 and 3, the regulation addresses the role of the delegated president, who is appointed by the Pope, exercises the presidency of the assembly in his name and by his authority, directs the synodal work, and signs the acts. His office is temporary and lasts only until the assembly is dissolved. If there are several presidents, they fulfill their function

⁷⁹ This last clause was not in the *Apostolica sollicitudo*, but was added as a consequence of the very nature of the Synod.

according to the order of succession established by the Pope.

With regard to the members and participants of the General Synod, the *regulations* recall and specify the norms provided for in the *Motu proprio Apostólica sollicitudo*. Among the participants in the Synod, some are members by right, such as the Patriarchs, Major Archbishops and Metropolitans who do not belong to the Patriarchates of the Eastern Churches, and the Cardinals who direct the dicasteries of the Roman Curia. Others are elected according to a fixed percentage: the bishops elected by the episcopal conferences, the religious by the Union of Superiors General. To the members by right and to those elected, we must add some bishops, religious, and ecclesiastical experts appointed directly by the Pope so as to constitute 15% of the total synodal members⁸⁰.

The participants of the special assembly must belong to the regions which are in the area concerned by the Synod. In addition to the members indicated in the *Motu proprio Apostólica sollicitudo* (no. VII), the *regulations* specify that the cardinals at the head of the Roman Dicasteries⁸¹, having a relationship with the matter to be dealt with, are also members of the synodal assembly. The number of religious elected is limited to two⁸².

In all cases, in the election of bishops and religious, account must be taken not only of their knowledge and prudence, but also of their theoretical and practical knowledge of the subject matter⁸³. The *regulations* also provide for a commission for controversies, appointed by the Pope (Chapter 6, art. 10).

The figure of the General Secretary of the Synod emerges with particular prominence⁸⁴. He represents a unique element of continuity, since he remains in charge after the conclusion of the synodal assembly and the disappearance of the various functions and offices entrusted to the ordinary members. This permanence is related to the nature and the attribution of his office itself. Appointed by the Pope, he remains in office as long as the Pope so requests; at the disposal of the Sovereign Pontiff, he carries out his orders. He directs the General Secretariat and signs its acts; in the name of the Pope and at his request, he sends out letters of convocation and various documents; he prepares the agenda and submits to the Pope the subjects to be dealt with.

In addition, there is mention of a special secretary whose office is limited in time and by the matter for which he has been appointed. His function is that of an expert, since he is chosen according to the matter to be treated in the assembly. Appointed by the Pope, he remains at the

80 Cf. *Ordo Synodi Episcoporum celebranda*, art. 5, § 4.

81 Cf. *ibid.* art. 5, § 3, 2.

82 Cf. *ibid.* art. 6, § 2, 2.

83 Cf. *ibid.* art. 6, § 1.5.

9i. Cf. *Ibid.* 10-12.

disposal of the delegate president of the synodal assembly and of the general secretary for all that concerns the preparation of documents, the drafting of reports, to give clarifications or to draft the acts. His function ceases at the end of the synodal assembly⁸⁵.

The second part of the *regulation* sets out the general norms⁸⁶: the manner of convocation of the Synod, dress, order of precedence, the obligation of secrecy, the use of the Latin language, the manner of collecting and distributing acts and documents, the manner of collecting the opinions and views of the Episcopal Conferences, the manner and form of voting, the obligation to report absences, the dispensation from the obligation to reside⁸⁷.

The third part of the *regulation* deals with procedure.

The synodal assembly opens with the celebration of Mass and the singing of the *Veni Creator* and concludes with the Holy Sacrifice of the Mass and the *Te Deum*.

At the first congregation, the delegate president takes his functions and opens the session. He announces the matter to be discussed and gives the floor to the rapporteur. The latter reads the *relatio* which has been previously distributed to the Fathers by the Secretary General. This introduces the debate.

At each convocation of a synodal assembly, the important task of rapporteur is entrusted by the Pope to a bishop, who may have recourse to the collaboration of the special secretary (art. 28).

After the reading of the *relatio*, the discussion begins. Article 32 is limited to the general norms. The President gives the floor, according to the list prepared by the Secretary General, to those members who have requested it the day before⁸⁸. The discussion may continue with other interventions in response mode, according to what is foreseen and established in article 33.

If the subject under consideration needs further study, the delegated

⁸⁵ Cf. *ibid.* 14-15.

⁸⁶ V. Carbone points out that these norms are for the most part extracted from *Vrdo Concini (Ecumenici Vaticani II*, with some possible adaptations (V. CARBONE, *H regolamento del Sinodo dei Vescovi*, in *Colloquio internazionale di studio* [Brescia, 25-27 settembre 1992], Brescia, 1995, p. 158).

⁸⁷ Cf. *Ordo Synodi Episcoporum celebrando*, art. 27-37.

⁸⁸ In the *Explanations* of 1967, n. III, distributed on the eve of the opening of the Synod, the presidency of the Synod specified that the floor would be given first to the representatives of the episcopal conferences and then to the other speakers. With regard to the same topic of discussion, only one Father speaks on behalf of the bishops' conference. Speakers should not exceed ten minutes (five minutes in responses) and should not repeat what has already been said in similar interventions. The delegated president may call the speakers together if they agree, so that finally only one of them speaks on behalf of all.

president may, with the consent of the Pope, set up a special study commission. The conclusions of this commission are then presented in the aula by a spokesman appointed by the commission itself⁸⁹.

Normally, there is a double mode of expression of the opinions of the members of the Synod⁹⁰. At the end of the discussions, each member expresses his feelings in writing. And if the Holy Father deems it opportune, a vote is taken according to the norms provided for in articles 22-24.

When all the synodal work is completed, the secretary general, assisted by the special secretary, writes a *relatio* on the subject or subjects dealt with and the conclusions reached⁹¹.

III - 2 Revisions to the 1966 Regulation

This regulation has undergone two official revisions: the first in 1969, the second in 1971. In addition, two sets of *explanations were subsequently* attached to the regulation: the first in 1967, on the eve of the first assembly of the Synod of Bishops, the second in 1974.

III - 2.1 The 1967 explanations

Following the convocation of the 1967 Synod and the publication of the Regulations, the "Presidents Delegates of the Synod", appointed by the Pope, met to agree on the procedure to be followed in order to respect the Regulations and to act according to the instructions received from the Supreme Pontiff. With his consent, they prepared a series of explanations on the norms of procedure to ensure the proper conduct of the debates. These *explanations*⁹⁰ were approved by Pope Paul VI and commented on by Cardinal Felici on the day of first Congregation, 30 September 1967. The *Explanations* are divided into seven points.

No. I recalls the obligation to observe the Rule and informs the Fathers about the possibility of sending suggestions for future Synods⁹². Numbers II, IV, and V are also repetitions of the *Regulation*.

No. II expands on Rule 32 of the *Rules of Procedure* in nine points, defines the order and duration of speeches and makes provisions to avoid repetition.

89 Cf. *Ordo Synodi Episcoporum celebrandae*, art. 34.

90 Cf. *ibid.* at 35.

91 See *Ibid.* at 36-37.

92 "In coetu generali (...) religiose observabitur *Ordo Synodi Episcoporum celebranda* quae a Summo Pontifice approbatus est die 8 decembris 1966".

"Patres synodales qui circa hunc *Ordinem* aliquid advertere aut suggerere cupiunt, id Praesidentibus Delegatis scripto notum faciant. At de his animadversionibus et suggestionibus ratio habebitur intuitu proximi Synodi coetus" (*pp. cit.*, p. 2).

No. VI repeats the purpose of the study commission and indicates its composition: 12 members, experts in the matters dealt with, of whom 8 are elected by the assembly and 4 appointed by the Pope; a president chosen by the Pope from among the 12; a secretary elected from among the members of the commission.

No. VII mentions the institution of a special committee for communications with the press, composed of 6 members, in charge of writing and communicating news. Fathers appointed by the Presidents Delegates will give periodic conferences to journalists on particular themes. The Fathers are reminded, however, to respect the rules of secrecy.

III -2. 2. The new text of the Regulation revised and expanded (1969)

Paul VI, on 16 September 1968, in view of the second assembly of the Synod of Bishops⁹³, set up a commission to examine the observations and suggestions made by the bishops or the episcopal conferences on various points of the regulations and to work out possible modifications to the 1967 regulations. The work of this commission continued and resulted in the new official regulations of the Synod of Bishops⁹⁴, which were published on June 24, 1969 by the Public Affairs Council of the Church⁹⁵.

All the modifications adopted in the *explanations* mentioned above were taken into account and introduced. Other modifications were also added:

In particular, in Article 1, it was specified that the Pope can suspend, transfer or dissolve the Synod

In the event of the death of the Supreme Pontiff, the assembly is suspended until the new Pope decides to continue it or orders a new one to be convoked (art. 17, § 4).

The new rules provide, if the President deems it opportune, for the possible discussion of the matter dealt with by the rapporteur in minor circles or groups of Fathers speaking in the same language. Each group elects a moderator and, once the discussion on the subject is over, one of the members is asked to speak in the name of the others in a general assembly (art. 34)

Finally, an article was added: article 3 which deals with the examination of the *modi*. The special secretary collects the *modi*, files them

102. It should be recalled that on 23 December 1968, Pope Paul VI informed the College of Cardinals and the Roman Curia of his intention to convoke an extraordinary assembly of the Synod of Bishops on 11 October 1969, with the aim of "examining suitable forms for ensuring better cooperation and more profitable relations between the Episcopal Conferences and the Holy See, and between the Conferences themselves" (*Insegnamenti di Paolo VI*, [1968] VI, Libreria Editrice Vaticana, Rome, p. 681).

⁹⁴ *Ordo Synodi Episcoporum celebranda recognitus et auctus*, AdS 61 (1969), pp. 525-539.

⁹⁵ The new text, compared to the previous one, includes one additional chapter and four additional articles, making it 24 chapters and 41 articles.

and, together with the secretary general, ensures their printing. These *modi* will then be submitted to the vote, with the formula *placet* or *not placet*.

III - 2. 3, *New regulations revised, enlarged and with additions* (1971)

During the extraordinary synodal assembly of 1969, many proposals or suggestions were made to strengthen the powers of the synodal secretariat. two proposals concerning the restructuring Secretariat of the Synod of Bishops were voted on October 27, 1969 by the Synod Fathers⁹⁶. proposed that a new body, in which bishops elected according to norms to be defined by the synodal assembly would participate, be entrusted with the preparation of the work to be done at the next assembly and with the execution of the decisions taken by the Synod and approved by the Supreme Pontiff This body would ensure a function of liaison and continuity between two synodal assemblies. It was also requested that this body ensure better coordination between the Holy See, the Eastern Churches and the Episcopal Conferences with regard to the matters to be dealt with in the synodal assembly.

Paul VI received the proposals made and decided to give greater efficiency to the Synod Secretariat, as he said in the final address to the Synod Fathers⁹⁷. Finally, on August 20, 1971, the same Council for Public Affairs of the Church published, with the approval of Pope Paul VI, the definitive version of the Regulations of the Synod⁹⁸.

The *Consilium* of the Synod Secretariat, consisting of 15 members, 12 of whom were elected by the last synodal assembly, was therefore created to strengthen the effectiveness of the Secretariat itself. Its constitution, function and role are described in the new *regulations* in Chapter VII in articles 11 and 13⁹⁹. All that concerns the general secretary, his

96 Cf. G. P. MILANO, *n Sinodo dei Vescovi*, Università di Sassari, Giufrré Editore, Milano 1985, p. 151; G. CAPRILE, *Il Sinodo dei Vescovi, Prima assemblea straordinaria (11-28 ottobre 1967)*, Edizioni "la Civiltà Cattolica", Roma 1970, p. 218.

97 PAUL VI, *Address at the Closing of the Synod of Bishops*, 27 October 1969, in *Catholic Documentation* 1551 (1969), p. 1011.

98 *Ordo Synodi Episcoporum celebranda recognitus et auctus nonnullis additamentis perficitur*, in AAS 63 (1971), pp. 702-704. In fact the *Acta Apostolica Sedis* does not reproduce the whole text but only the modifications: article 6, § 4 and chapter VII, articles 11-13.

99 Thus Article 11 gives a new definition of the General Secretariat: a permanent institution at the service of the Synod established as a liaison body between the various synodal assemblies The General Secretary is appointed by the Roman Pontiff, while the Council of the Secretariat is constituted at the end of each general assembly and consists of 15 members, 12 of whom are elected by the synodal assembly itself, taking into account the representation of the Catholic episcopate throughout the world, and two of whom are appointed by the Pope (art. 13, § 2). They remain in office until the next election of the new council at the next synodal assembly. This council assists the General Secretary in examining the proposals made by the Eastern Churches and the Episcopal Conferences

appointment, his function, his attributions and his auxiliaries, is treated in article 12

III - 2 - 4 Explanations of 1974

The publication of the 1971 *Regulations* did not close the door to possible improvements in the *Ordo Synodi Episcoporum* or to requests for changes in the synodal bodies and in the conduct or process of synodal activities themselves. The *Consilium* of the Synod Secretariat has always been concerned about this and has informed the Pope of desirable changes to the existing text¹⁰⁰. Paul VI preferred not to change the text, but ordered the publication of a new series of *explanations* to facilitate the application of the 1971 *regulation*. Thus, at the beginning of the third synodal assembly in 1974, an official leaflet entitled *quædam explicationes* was distributed¹⁰¹.

Subsequently, at the Synod of 1977, after many requests or suggestions had been received by the Synod secretariat for changes to the regulations, the 1974 *Quædam Explanations* leaflet was reprinted and distributed to the Fathers during the first General Congregation¹⁰².

It should be noted that n. I of the *Explanations* echoes the voice of the minority, explaining that the delegates of the Episcopal Conferences, in expounding the views of their Conferences, should also expound those of the minority.

Numbers IV and V of the *Explanatory Memorandum* specify some procedural points regarding the discussion and drafting of the final document.

The question concerning the voting of delegates of Episcopal Conferences is clarified in n. VI. The obligation that the *regulations* impose on the delegate to vote according to the mandate received from the Episcopal Conference is relative. In fact, if the discussions in the aula or in

regarding the topics to be dealt with during the synod, and in preparing the work to be done during the next synodal assembly (art. 13, § 5) This council is convened twice a year by the General Secretary and whenever the Pope convenes it.

100 Cf. V. CARBONE, *Il regolamento del Sinodo dei Vescovi*, in *Colloquio internazionale di studio* (Brescia, 25-27 settembre 1992), Brescia, 1995, p. 166.

101 *Explicationes quædam circa "ordinem Synodi Episcoporum celebranda recognitum et auctum"*. Synodus Episcoporum 1974. The text of the *Explicationes* found in G. CAPRILE, *Il Sinodo dei Vescovi, Terza assemblea generale* (27 settembre- 26 ottobre 1974), Edizione "la Civiltà Cattolica", Roma 1975, pp. 1038-1040.

102 For more information on the history and development of these *Explanations* (1974), it may be useful to consult the article by G. Caprile: G. CAPRILE *Il Sinodo dei Vescovi e il suo funzionamento* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 122 & seq. The author has also compiled and synthesized the main proposals and observations made by the Synod Fathers concerning the preparation and conduct of the Synod and its bodies, which constitute very useful material for possible improvements (*Ibid.*, pp 126-157).

circuli minores (crossroads) have allowed the delegate to mature his or her judgment, he or she can express in the vote his or her personal opinion, according to the judgment of his or her conscience, for the good of the universal Church.

If we have taken the liberty of addressing certain points of the -*regulations* and especially the successive corrections that have been made to them, it is in order to better show the dynamic character of this institution of the Synod of Bishops, which was set up after the Second Vatican Council and whose improvement of the norms was foreseen in the *Motu proprio Apostolica sollicitudo*¹⁰³.

IV - THE SYNOD OF BISHOPS IN THE NEW CANONICAL LEGISLATION

To complete the framework of magisterial and normative references that delimit the role, purpose and organization of the Synod of Bishops, it is also worth considering what the Church tells us in its canonical legislation about this recent institution

IV- 1. The 1983 Code of Canon Law

The 1983 Code of Canon Law devotes an entire chapter to the question of the Synod of Bishops, the fruit of successive revisions of several schemes¹⁰⁴ and of arduous drafting work. This chapter is inserted in the first section of Book II, entitled *de suprema Ecclesia auctoritate* (the supreme authority of the Church), between Chapter I, which deals with the Roman Pontiff and the College of Bishops, and Chapter III, which deals with the cardinals and the Holy Roman Church. The place of the Synod in the Code already shows the underlying problematic, linked to the relations of this institution with the Roman Pontiff on the one hand, and with the College of Bishops on the other¹⁰⁵.

103 "Hæc Synodus, quæ omnium humanorum institutorum more, successu temporis, perfectionem usque formam assequi poterit, generalibus normis regitur" (*Apostolica sollicitudo*, in AAS 57 [1965], p. 776).

104 We do not intend to dwell on the process and work which preceded the final elaboration and publication of the canons dedicated to the Synod of Bishops in the Code of Canon Law (1983). Studies on this subject have already appeared and can be easily referred to. We will simply cite as a reference: M. BRAVI, *Revisione e legislazione codiciale (del Sinodo)*, in *II Sinodo dei Vescovi*, P.U.G., Roma, 1995, pp. 169-186.

105 Cardinal J. Ratzinger also evokes this problem of the place of the Synod within the primacy-collégiality binomial: "Qui sorge il problema del rapporto del *Sinodo* tanto con il Pontefice Romano quanto con il Collegio dei Vescovi, mentre, a sua volta, it is another question that precedes the way in which the Roman Pontiff and the College are related to each other and the sense in which this inextricable duality allows for the unity of authority in the unity of the Church" (J. RATZINGER, *Scopi e metodi del Sinodo dei Vescovi*, in J. TOMKO,

order to show the coherence and continuity of the above-mentioned documents, which define the functions and regulate the work of the Synod, - interesting compare the references to the *Motu proprio Apostólica sollicitudo* and the 1971 *Regulations* with the six canons of the Code (1983) which deal with the same subject. Some terms and expressions of *Apostólica sollicitudo* or *Y Ordo Synodi episcoporum* have been literally inserted into the canonical legislation

The Code, in its canons 342 to 348, has endeavoured to establish the juridical norms of an already existing institute, at work in the life and course of events of the Church, provided with a regulation (*Ordo*). In manifesting the essential features of the Synod of Bishops, these canons

C.I.C. (1983)	<i>Apostolica Sollicitudo</i> (1965)	<i>Ordo Synodi Episcoporum</i> (1971)
c. 342	I;D.1	
c. 343	li	Article 1, 7°.
c. 344	III	Article 1
c. 345	IV	Article 4
c. 346 §1	V;VIII;X	Article 5, § 1; Article 6
c. 346 § 2	VI	Article 5, Ç 2
c. 346 § 3	VII;Wine;X	Article 5, §3
c. 347 § 1	XI	
c. 347 § 2		Article 17, § 4
C.34811	XII	Articles 11-13
c. 348 § 2	XII	Articles 14

This allows us not only to determine the juridical nature of the Synod, but also to get a better idea of its true theological physiognomy. Canons 342 and 343 do not give a definition of the Synod per se, but describe its functions and indicate its purpose, which can serve as a preliminary basis for theological discussion.

In canon 342¹⁰⁶, for example, mention is made of a *coetus Episcoporum*, chosen from the various regions of the world, which gather at fixed times with a threefold purpose:

- First of all, it is a matter of fostering close union between the Roman Pontiff and the bishops.

// *Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 46).

106 *Synodus Episcoporum coetus est Episcoporum qui, ex diversis orbis regionibus selecti, statutis temporibus una conveniunt ut arctam coniunctionem inter Romanum Pontificem et Episcopos foveant, utque eidem Romano Pontifici ad incolumitatem incrementumque fidei et morum, ad disciplinam ecclesiasticam servandam et firmandam consiliis adiutricem operam praestent, necnon quaestiones ad actionem Ecclesiae in mundo spectantes perpendant* (CIC [1983], canon. 342).

- The Synod, by means of its advice, is to assist the Pope in the defence and advancement of faith and morals, and in the preservation and strengthening of ecclesiastical discipline.

- Finally, the role of the Synod is to examine questions concerning the Church's action in the world

These three relationships which determine the theological essence of the Synod are in fact reduced to a single reality on the juridical level and are inscribed in the connotation of *help and advice* which the Synod of Bishops provides to the Supreme Pontiff as foreseen in successive canons 343 and 344.

In canon 344 it is specified that the Synod is directly subject to the authority of the Roman Pontiff, and similarly in canon 343¹⁰⁷ it is established that the Synod discusses the matter to be dealt with and expresses wishes, but does not make decisions, nor does it issue decrees, except in cases where the Pope would give it deliberative power.

Canons 345 and 346 deal with the various types of synodal assemblies and their composition, using almost word for word the terms of the *Apostolica sollicitudo* and the *Ordo Synodi Episcoporum* (1971). Several times they refer to the proper law of the Synod, i.e., to the *Ordo* which we have already analyzed.

Canon 347 defines the effects of the conclusion of the Synod and its suspension in case of a vacancy in the Apostolic See.

Finally, canon 348 establishes the role of the General Secretariat, the Secretary who directs it and the Council of the Secretariat composed of 12 bishops.

IV - 2 Response of the Pontifical Commission for the Revision of the 1983 Code of Canon Law to a request from the Synod Secretariat

The description of the Synod of Bishops in canon 342 of the Code of Canon Law (1983) contains a notable omission the official documents that introduced the new institution the *Motu proprio Apostolica sollicitudo*, as well as the conciliar document *Christus Dominus* dealing with the Synod, describe it as *partes agens totius catholici Episcopatus* (representing the whole Catholic episcopate) or *totius catholici Episcopatus partes agens*, terms which are not found in the description given in canon 342.

The Secretariat of the Synod of Bishops, in a letter of September 9, 1983, to the Pontifical Commission for the Revision of the Code of Canon Law, asked for the reasons for such an omission. The Commission officially

116." Synodi Episcoporum est de quaestionibus pertractandis disceptare atque expromere optata, non vero easdem dirimere de iisque ferre decreta, nisi certis in casibus potestate deliberativa eandem instruxerit Romanus Pontifex, cuius est in hoc casu decisiones Synodi ratas habere<C/C [1983], can. 343).

replied through its President, Bishop Castillo Lara, enclosing a text¹⁰⁸ dated 20 September and prepared by Bishop Onclin, assistant secretary of-Commission and rapporteur of the *Coetus de sacra Hierarchia*.

According to the opinion of the commission, the bishops present at the Synod, in addition to the charge of their particular Church, have a solicitude for the whole Church, and as such it can be rightly said that on the theological level they represent the whole Church, for *in virtue of divine institution and the duties of their apostolic office, each of them, in fact, is responsible for the Church together with the other bishops*¹⁰⁹ ^.

But the juridical situation is different; the bishops cannot be said to exercise a function in the other Churches because, according to the decree *Christus Dominus*, they exercise their pastoral authority over the portion of the People of God entrusted to them and not over the other Churches or over the universal Church¹¹⁰. In order to avoid juridical ambiguity, the CIC did not wish to insert in categorical terms the general representation of the entire world episcopate by the Synod of Bishops, since the bishops as such do not represent or are not delegated by the other Churches¹¹¹. The response of the commission repeated that if there were to be such a general representation, then the Synod would be nothing more than an Ecumenical Council, with its own deliberative power¹¹².

108 The Commission's reply and the accompanying text are reported in the book *II Sinodo dei Vescovi, Natura, Metodo, Prospettive*, a cura di J. TOMKO, Libreria Editrice Vaticana, Roma, 1985, pp. 179-181.

109 See CD 6.

110 Cf. LG 23.

111 *It cannot be said in a juridical sense that the bishops also represent the other Churches or are delegates of them. This is why this expression has not been received in the Code of Canon Law, which is not a theological but a juridical document" (PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Response of the Commission for the Revision of the Code of Canon Law*, 20 September 1983, in J. TOMKO, *op. cit.*)

112 Already during the revision of the Code of Canon Law, at the session held on 18 January 1980, the expression *totius catholici Episcopatus parus agens* had been rejected by the commission in charge of the revision (*Pontificia Commissio Codici Iuris Canonici Recognoscendo*), so as not to give the impression that the Synod represents all the bishops and could be assimilated to an ecumenical council. In fact, some members of the commission were in favour of its insertion in the text of the Code in order to highlight the representation that the elected members exercise with regard to the episcopal conferences: *Se non si dice chiaramente che i delegati al Sinodo rappresentano le varie conferenze episcopali, si preclude lo sviluppo futuro del Sinodo. This is serious because it will always be more difficult to have an Ecumenical Council given the increase in the number of bishops, and in the future the function of the Council could be replaced by the Church. However, it is good to maintain the concept of representation* (cf. *Communicationes XIV/1* [1982], pp. 92-93).

Other members, on the contrary, maintained that *if the Sinodo represented all the vestries vera menu, it should have deliberative suffrage, and its actions, in representation of the Episcopal College, should be considered true collegial actions in the legal sense,*

Here we see the field open for theological discussion on the value of the representation of the Catholic episcopate by the Synod of Bishops, as affirmed in *Aposiologica sollicitudo* and *Christus Dominus*, and we will have occasion to return to this in the remainder of our study



In conclusion to this descriptive chapter on the genesis and the magisterial and canonical sources of the Synod of Bishops, we can make the following statements:

It is certain that the preparatory work for the Second Vatican Council, the work of the Council itself, in the elaboration of the decree *Christus Dominus* on the pastoral office of bishops, played an important role in the institution of the Synod of Bishops. ^eAlthough the Synod was established by an act of personal government of Paul VI (the *Motu Proprio Apostolica Sollicitudo*), the close connection between the decision to establish the Synod and the ecclesial event that marked the second half of the 20th century, namely the celebration of the Second Vatican Council, cannot be underestimated.

The Synod, in fact, was instituted not as a happy coincidence during the Second Vatican Council, but rather as the fruit of the conciliar event and of the theological reflection carried out by the Fathers, especially on the theme of the episcopate, its nature, its collegial character and its relationship with the Primate. The Synod can therefore rightly be considered as the fruit of the ecclesial renewal undertaken by the Council, and Paul VI was able to say on 29 September 1967:

We have declared that this new organism of the visible government of the Church is to be related to the recent Council as well as to its forthcoming principle: it was during the Council that We created it, and it was practically born of the Council*¹¹³.

Consideration of the general norms laid down in *Apostolica sollicitudo* and the successive particular norms in *Y Ordo Synodi* of 1967 and in that of 1971, together with the indications of the CIC (1983), offers a complement for the doctrinal understanding of the Synod" which, theologically, remains both a representation of the episcopate and an organ of advice for the Pope in order to assist him in the fulfilment of his office. This strengthens the union and collaboration between the Pope and the

which does not correspond to the truth(*Communicationes* XIV/1 [1982], p. 92). The omission of the insertion was decided by a majority vote in the commission.

¹¹³ PAUL VI, *Allocution for the Inauguration of the Synod of Bishops*, 29 September 1967, in *Catholic Documentation* 1503 (1967), p. 1733.

bishops of the world. The norms governing the functioning of the Synod are also important because they determine in a concrete way a kind of privileged relationship between the Pope and the episcopate. It is interesting to see the refinement and continuity of the juridical norms with the theological data previously established, while also noting the differences that emerge in the description of the synodal assembly. the expression *totius catholici episcopatus partes agens*, in relation to the Synod, underlines the representation of the episcopate in a theological context in which all bishops participate the pastoral solicitude over the whole Church, but it cannot be retained as adequate on the juridical level, because of the risk of assimilating the Synod of Bishops to an Ecumenical Council, which usually enjoys the deliberative power proper to the College of Bishops

Chapter II

Purpose and Functions

Advisory function

Deliberative function

The description of the Synod of Bishops in its founding documents leads logically to an analysis of its purpose and, above all, of its functions in relation to the government of the Church. The Synod of Bishops has its roots in the doctrine of the collegiality of the episcopate as elaborated at Vatican II, and it assumes a role and responsibility towards the universal Church which we will evaluate. Long advocated during the conciliar debates as a means of participation of the episcopate in the *suprema potestas*, finally erected by Pope Paul VI by means of the Motu proprio *Apostolica sollicitudo*, the Synod of Bishops is now a living reality in the Church. It regularly gathers a number of bishops, chosen from the episcopate of the whole world, around the Supreme Pontiff, with very specific work to be done.

The Motu Proprio *Apostolica Sollicitudo* says the following about the functions of the Synod of Bishops

"By its very nature, the Synod of Bishops has the mission to inform and advise. It may also have deliberative power when this power is given to it by the Sovereign Pontiff, who in this case will ratify the decision of the Synod"¹¹⁴.

I - PURPOSE OF THE SYNOD OF BISHOPS

The Motu proprio *Apostólica sollicitudo* and the subsequent norms (*J'Ordo Synodi Episcoporum celebrando*) underline the role of the Synod and its purpose in the present context. The important contemporary sociological changes are not without repercussions for the life of the Church and the functioning of its institutions. Theological reflection that has been sustained for many years, the common practice consultation, prior consultation before any important decision is taken at the level of society or

114 *Apostolica sollicitudo* II, in AAS 57 (1965), pp. 776-777.

civil institutions, the acceleration and multiplication of the means of communication, their undeniable advantages and often the need to have precise and abundant information, are all factors that have not failed to have a significant impact on the Church not so much the nature of the Church as such that is affected, since the Church, founded and divinely instituted by Jesus Christ, the eternal Shepherd, has an irreformable structure destined to last until the end of time, but rather its mode of being, its way of carrying out its office of government, of exercising authority, of expounding its doctrine¹¹⁵. The Church, whose mission is essentially the extension of the presence and action of Christ, the prophetic proclamation of the Word of God in season and out of season¹¹⁶, the administration of the sacraments of salvation, through which divine graces are dispensed, is the holder of the words of eternal life. As the Spouse of the Incarnate Word and the Mystical Body of Christ, it is and remains always the same in the midst of the changing conditions of the world, but it does not cease to work at perfecting the functioning of its institutions, to adapt its way of acting to the new human, psychological and social conditions, so as to be always an effective instrument in the conservation, transmission and clarification of the deposit of the Faith which it received from Christ through the Apostles

The Synod of Bishops is part of the process of *aggiornamento* that began with Vatican II, with a view to relaunching Church's evangelizing mission and making it more widespread and effective. The aims of the Synod, directly oriented towards this objective, are explicitly specified in the *Motu proprio*, which distinguishes between the general aims of the Synod and the secondary aims¹¹⁷:

1 - 1. The general aims of the Synod of Bishops

According to the *Motu Proprio*,

¹¹⁵ We think it may be useful to quote a passage from an address by Pius XII to the Cardinals in 1946, which illustrates this need for the Church to adapt the functioning of her institutions. On the subject of the principle of subsidiarity which tended to prevail in contemporary society, the Pontiff, after having explicitly stated that this principle also applied to the internal life of the Church, added - 'The Church in her march follows without pause and smoothly the providential path of times and circumstances. This is the profound meaning of her vital law of continual adaptation. Some, unable to rise to this magnificent conception, have interpreted and presented it as opportunism. No, the universal understanding of the Church has nothing to do with the narrowness of a sect or with the exclusiveness of an imperialism imprisoned in its own tradition' (PIUS XII, *Address to the New Cardinals*, February 20, 1946, in *La Documentation Catholique* 958 [1946], col. 173).

¹¹⁶ Cf. 2 Tim. 4:2.

¹¹⁷ The *Code of Canon Law* (CIC [1983], can. 342) also states the purposes the Synod of Bishops. It does not explicitly distinguish between general and secondary ends, but the terms of the statement essentially repeat the words of *Va Apostolica sollicitudo*.

The general purposes of the Synod of Bishops are: a) to maintain close union and collaboration between the Supreme Pontiff and the Bishops of the whole world; b) to ensure that direct and true information is given on situations and questions relating to the internal life of the Church and to her action in the world today; c) to facilitate the concordance of views, at least on the essential points of doctrine and on the modalities of the Church's life >¹¹⁸.

1 1.1 The strengthening of ties and collaboration between the Supreme Pontiff and the bishops of the world

The bonds that unite Bishops to each other and to the Supreme Pontiff are of a very special nature. They are bonds of profound communion which have their roots in the very mystery of the Church, one and indivisible.

We know that just as the Church is one and universal, so the episcopate is one and undivided¹¹⁹. We have seen in the first part¹²⁰ that sacramental ordination transmits to the bishops the content of the apostolic succession, which is participation in a reality originally existing *in solidum* in the Apostolic College, which is the depository of the one authority of Christ. And this substantial unity of the episcopate is one of the constitutive elements of the unity of the Church¹²¹.

The Synod of Bishops is therefore a means of recalling and signifying this substantial unity of the Bishops among themselves and of the Bishops with the Pope; moreover, in concrete terms, it is a means of fostering, maintaining and deepening this unity so that it may be perfected and be a sign and witness of the unity of the Church before the whole world

The bishops gathered in Synod come from various regions of the world, and the great majority are elected by the episcopal conferences. These periodic meetings can only foster that communion, that *affectus collegialis* of which we spoke in the first part, and thus promote a close union between the Pope and the bishops.

For J. Ratzinger sees the preparatory work for the Synod of Bishops in the individual Churches, in parish circles, in diocesan or interdiocesan commissions, in study circles, and finally in the episcopal conferences as a manifestation of common efforts to become aware of and reflect

118 *Apostolica sollicitudo* II, in AAS 57 (1965), pp. 776-777.

119 Cf. CONCILIUM OECUMENICUM VATICANUM I, Constitution *Pastor aeuernus*. Prologue, in DS 3051. Cf. also A. MIRALLES, *Le Conjerenze dei Vescovi: lettura teologica del Motu proprio Apostolos suos*, in *Annales theologici* 13/2 (1999), pp. 287-291.

120 See Part I, Chapter IV, § VII.

121 "Indeed, the unity of the Church is also rooted in the unity of the episcopate (...). This unity of the episcopate is perpetuated down the centuries through apostolic succession, and it is also the foundation of the Church's identity in every age with the Church built by Christ on Peter and the other Apostles" (CN 12). Cf. also *Motu proprio Aposiolos suos* 8.

on the problems of the Church. The bishops participating in the Synod, aided by all this preparatory work and the spiritual action of the faithful, are better able to exercise their responsibilities and to bear witness to the faith of their Churches. This mature preparation, as well as the subsequent application of the synodal decisions, serves and strengthens the communion of all the Churches: *it must be affirmed that the Church is not in essence a permanent Council (or Council), as some have wanted to say, but the Church is a communion and the Council must serve the Communion. This preparation and application in the life and action of the particular Churches realizes the true purpose of the Synod*¹²².

At the end of each Synod, the Fathers return to their particular Churches, enriched by their synodal experience, during which a beautiful ecclesial osmosis was achieved. The Synod of Bishops first gathers the suggestions and experiences of living the faith in the particular Churches, then confronts them in the light of faith in the synodal discussions and finally formulates, in a spirit of communion, the proposals which will then be taken up and transmitted by the Pope, if he deems it opportune, to local communities. One can truly say that there is an ebb and flow movement, guided and punctuated by the dynamism of communion¹²³.

Let us note that according to V. Ferrara, the Synod of Bishops is nothing else in substance:

"It is a ministry of ecclesial charity derived from the mystery of Christian charity, capable of expressing in a new way and adapted to our times the link between the Church of Rome, *which presides over charity* (St. Ignatius of Antioch) and the various local Churches, and to confirm and strengthen the bonds of faith, charity and pastoral action between the apostolic office of the Pope and that of the whole Catholic episcopate"¹²⁴.

This is also what Paul VI said at the opening of the first session of the Synod in 1967:

For us, it suffices to note how much this new body, placed at the centre of the Church itself, is in harmony with the spirit of union and collaboration between the Apostolic See, the Catholic episcopate and the major superiors of the religious families, such as the Council has experienced and wished to promote^{*125}.

122 J. RATZINGER, *Scopi e metodi dei Sinodo dei Vescovi*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Proiezioni*, I Abrenzi Editrice Vaticana, Roma, 1985, p. 57.

123 Cf. A. MARRANZINI, *Il Sinodo organo della "sollecitudine pastorale dei Vescovi" per il popolo di Dio*, in *Rivista del Clero Italiano* 64 (1983), p. 857.

124 V. FERRARA, *Il Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 (1969), p. 512.

125 PAUL VI, *Allocution for the first meeting of the Synod of Bishops*, 30 September 1967, in *Catholic Documentation* 1503 (1967), p. 1738.

I - 1. 2. Obtaining direct and accurate information about the problems and situations which concern the internal life of the Church and its action in the world today

When the Bishops appointed by the various Episcopal Conferences of each nation meet in the Synod of Bishops to exchange their feelings and carefully study the questions submitted to them, a vast network complete and detailed information can be gathered. The direct news about the faith, morals and life of the Churches making up the Catholic universe, which the Pope receives from the Bishops gathered in Synod, is a reliable source for the Supreme Pontiff, helping him to discern the doctrinal and pastoral needs, the type of common action that should be promoted for the good of the universal Church, and finally, the most appropriate decisions for the common good¹²⁶.

The Synod of Bishops is a dynamic and effective instrument for the transmission of information. Without diminishing the value of other sources of information, those obtained through the Apostolic Nunciatures, by the Bishops privately or more institutionally on the occasion of their *ad limina* visit, the Synod of Bishops offers a privileged means for the exchange of vital information and for the realization of profitable contacts between the Pope and the Bishops. As V. Fagiolo says, thanks to the Synod, the Pope does not only receive isolated, separate information, as is usually the case with ordinary sources of information, but news that has been purified, examined and discussed beforehand within the Episcopal Conferences, with indications of solutions that are more suitable for the particularities of each region¹²⁷.

It should be noted that information flows in both directions, i.e., from the College of Bishops to the Supreme Pontiff or to members of the Curia, including the heads of the dicasteries¹²⁸ who participate in the Synod, and from the staff of the Curia or the Holy See to the members of the Synod.

As Paul VI noted,

"Let us also note how this Synod wants to promote the circulation-knowledge and experiences relevant to the life of the Church, offering

¹²⁶ "The joint discussion of the Vescovites of each region provides the Supreme Pastor of the Church with immediate information on the faith and life of the Chiesa. Having received this information from the Vescovites and having known their proposals for the solution of problems, the Supreme Pastor can make decisions for the common good of the Church, keeping in mind the real social conditions of the various regions" (W. BEKTRAMS, *Struttura del Sinodo dei Vescovi*, in *Civiltà Cattolica* [1965], 136/IV, p. 420).

¹²⁷ Cf. V. FAGIOLIO, *op. cit.*, p. 38; Cf. also C. BERUTTI, *Adnotationes in Litteris Apostolicis; "Apostolica sollicitudo" Pauli VI*, in *Monitor ecclesiasticus* 90 (1965), p. 538.

¹²⁸ *The Ordo Synodi celebrandae* requires the General Secretary to transmit to the Cardinal Prefects the minutes of each assembly, as he already does for all the participants (ORDO SYNODI EPISCOPORUM CELIBRANDÆ RECOGNITUS ET AUCTUS [1969], in AAS 61 [1969], art. 12, § 3, 5°).

the heads of the dicasteries of the Roman Curia and the representatives of the various ecclesiastical circumscriptions the opportunity to meet and discuss themes of general interest *¹²⁹ .

But that is not all. should be noted that since the third synodal general assembly, the prefects, the heads of the dicasteries, inform the synodal members of the activities carried out in the dicasteries by means of interventions in the form of communications This is usually followed by a discussion in which the Fathers address specific points, while remaining within the limits of a purely informative presentation.

I 1. 3. to facilitate agreement of opinions at least on the essential points of doctrine and the mode of action in the life of the Church

It is indisputable that on the level of truths defined or held as certain in the field of faith or morals, there can be no substantial disagreement. However, it is true that diversities, sometimes seemingly very contrasting, can arise both in the field of methodology and in the field of interpretation, explanation or simply in the enunciation of certain doctrinal truths. It is necessary to take into account the great diversity of situations, contexts and cultural, social, political, psychological, intellectual, theological or philosophical traditions that exist in the Catholic or secular world and the need for doctrinal truths to be concretized in order to become criteria for action and principles of life. The work of theologians great value here, not only for the deepening of doctrine, but also for its clarification, understanding and inculturation in such different contexts Let us recall what the Second Vatican Council said in this regard:

"Hence, while respecting the methods and rules proper to the theological sciences, they (theologians) are invited to seek unceasingly the most suitable way of communicating doctrine to the men of their time: for something else is the very deposit or truths of the faith, something else is the manner in which these truths are expressed, provided, however, that their meaning and significance are safeguarded *¹³⁰ .

Similarly, Pope John Paul II has often recalled the importance of the work done by theologians, and praised their efforts to present doctrine in forms more suited to the sensitivities and questions of our time¹³¹ .

¹²⁹ PAUL VI, *Allocution for the first meeting of the Synod of Bishops*, 30 September 1967 in *Catholic Documentation* 1503 (1967), p. 1738.

¹³⁰ GS 62.

¹³¹ Let it suffice to quote from the Encyclical *Irritatis Splendor*: "The efforts of many theologians, supported by the encouragement of the Council, have already borne fruit in the form of interesting and useful reflections on the truths of the faith which must be believed and applied to life, presented in forms which respond more to the sensibilities and questions of the people of our time" (*Victims of the Truth* 29).

However, in order that this inevitable diversification may not lead to errors which could tarnish the purity of dogma, the correctness of moral statements or the practical rule of conduct, it is necessary that the Church's Pastors, under the guidance of the Supreme Pontiff, confront, discuss and clarify the diversity of situations. In this way they can plan and organize what needs to be said and done in each case, so that the Gospel may not lose any of its flavor in the midst of a pluralistic world and so that its doctrine may be better received and put into practice.

The Synod of Bishops offers the Pastors a marvellous opportunity, a unique occasion to carry out this verification and implementation in a communion of faith, so agreement remains firm on the essential points of doctrine and on the mode of action in the life of the Church¹³². Having received direct information from the Bishops on the faith and life of the Church, and having heard their proposals for solutions to the various problems, the Supreme Pontiff is in a position to make appropriate decisions for the good of the Church.

1-2. The special and immediate purposes of the Synod of Bishops

*The special and forthcoming purposes of the Synod of Bishops are: a) to establish an exchange of useful information; b) to give advice on matters for which the Synod has been convened*¹³³.

These special purposes envisaged by the *Motu Proprio* are already contained the primary purposes just mentioned, and it seems almost superfluous to enumerate them¹³⁴. However, they do help to better

132 Cf. V. FERRARA, *H Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 (1969), p. 507. V. Fagiolo, after having clearly explained this need to watch over the preservation of *Y unitas et communicatio fidei*, which is imposed on all pastors, adds: "There is no doubt that the Sinodo on occasion must defend and protect the deposit of faith which Christ has entrusted to the Church; but his first task remains always the same, that of confirming and renewing the values of faith (...). If it is true, however, that *no sentential diversity can be admitted regarding certain and definite faith and moral truths, if in fact they are considered*, it is also true that there is not always agreement and unity of purpose and method in the expression and interpretation of these certain and definite truths of faith and morals. Today, above all, the vast and arduous problematica that surrounds the interpretation and presentation of almost all the truths of faith seems to compromise the very content of the truth that is the subject" (V. FAGIOLO, *op. cit.*, pp. 39-40).

133 *Apostolica sollicitudo* II, in *AAS* 57 (1965), pp. 776-777.

134 This is the thought of W. Aymans, who says of the special purposes of the Synod of Bishops: "Warum diese besonderen und nachliegenden Gründe angefügt worden sind, ist nicht ersichtlich; diese sind nämlich in dem allgemeinen Zwecken schon erhalten. Daß hier der Zuschnitt auf die jeweilige konkrete Synode etwas stärker hervortritt, rechtfertigt eine besondere Aufzählung nicht" (W. AYMANS, *Das synodale Element in der Kirchenverfassung*, M. Hueber Verlag, München, 1970, p. 168) Similarly, G. P. Milano remarks on the statement of the different ends that "We are faced with a description of the ecclesiological meaning

understand the nature of the function of the Synod of Bishops, since they description of consultative functions

1-2. 1. The exchange of news on the matters which constitute the theme of the convocation of the Synod

In addition to the possibility of providing for the common good, the convocation of the Synod of Bishops offers many advantages. Among the objectives pursued directly, it is worth mentioning the possibility offered to the members of the Synod, most of whom come from very different nations, to exchange among themselves the latest news, to share experiences, to give each other advice on the government of the dioceses, especially on the most burning issues which are a cause of concern to a time when globalization is a phenomenon that tends to penetrate the heart of cultures or to insert itself into every cell of society, general or extraordinary Synods are privileged occasions to satisfy this immense need for exchange and sharing at the level of the universal Church. This form of direct and collegial communication between pastors and leaders of different Churches, gathered in the presence of the Successor of Peter, confers a special effectiveness on the episcopal ministry of each Bishop¹³⁵.

It should be noted that the present procedure for the conduct of a Synod involves the exchange of information and the sharing of ideas not only during the Synod but also in the preliminary phase. Usually a group of experts, under the direction of the *Consilium*¹³⁶ or Council of the General Secretariat, composed of bishops appointed or elected at the previous Synod, develops a draft or approach, called *lineamenta*, to the theme that has been chosen for the next Synod. This document, sent to the episcopal conferences in the year preceding the opening of the synodal assembly, constitutes a basis for reflection and helps to guide the formulation of the various opinions on the subject. The written responses that reach the Secretariat of the Synod then serve as material for the working document or *instrumentum laboris*, also prepared by a group of experts.

of the institution which is made with a simplified and extended formula, as the distinction between general and special ends is superfluous within the limits in which these ends are naturally compressed" (G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milano 1985, p. 272).

¹³⁵The bishops' conferences inform the Roman Pontiff and the Roman Curia; the Roman Pontiff informs the Vespers, the Vespers inform In this process of learning, the communication of truth is accomplished and the knowledge that the pastor needs to know in order to be able to know himself and to be known can mature" (J. RATZINGER, *Scopi e metodi del Sinodo dei Vescovi*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 57).

¹³⁶The role and function of the Council of the Synod Secretariat is described in Article 13 of the Regulations of the Synod of Bishops (ORDO SYNODI EPISCOPORUM CELEBRANDA- RECOGNITUS ET AUCTUS, art. 13).

The *instrumentum laboris* in turn is a starting point for the maturation of ideas and further reflection within the various episcopal conferences and then for the discussions in the aula on the proposed theme¹³⁷. It is almost needless to say that the prior consultations with the episcopates, the exchanges and reflections that take place among the bishops before the official opening of the Synod, and the many opportunities offered to the participants to express their point of view, provide a significant amount of information.

1 - 2, 2 Manifestation and formulation of advice on matters for which the Synod has been convened

The exchange of information in synodal assemblies inevitably leads to a confrontation about the nature of the information exchanged and about the solution of the problems. One of the special purposes of the Synod of Bishops is precisely the formulation of recommendations or advice which can help the higher authority to make appropriate decisions in response to the challenges of the moment and to promote, with the help of the bishops, suitable actions for the good and growth of the whole Church.

The formulation of suggestions and advice has not been lacking in successive synods, and in this way the synodal assemblies have fulfilled the purpose for which they instituted

The Synod of 1967 suggested to the Pope the institution of an international theological commission, endorsed certain proposals concerning liturgical reform, and approved certain changes in the ecclesiastical laws on mixed marriages. The Extraordinary Synod of 1969 offered particular recommendations to the Pope on improving communications between the Roman dicasteries and the local Churches and on enhancing synodal activity. The Synod of 1971 expressed its interest and preference for the maintenance of the discipline of ecclesiastical celibacy in the Latin Rite Church. The Extraordinary Synod of 1985 urged the completion of the Code of Canon Law for the Eastern Churches and recommended the preparation of a catechism for the universal Church. Although these examples come mainly from the first three Synods, it should be noted that from 1974 onwards the synodal assemblies no longer confined themselves to formulating a few specific proposals, but prepared a list of numerous and varied proposals¹³⁸, duly approved by the synodal fathers.

137 This dynamic of the Synod of Bishops is described in detail in the *Vademecum of the Synod*, which is given to each participant before the first session of each synodal assembly. The *Vademecum* of the General Synod can be consulted with interest: SYNODUS EPISCOPORUM 1994, *Vademecum Synodi*, cura Secretariæ generalis Synodi Episcoporum, Citta del Vaticano, 1994.

138 These *proposals* are defined in the *Vademecum Synodi* of 1994 (the Synod of 1994 dedicated to consecrated life was the last General Synod to date), in article 55: "Propositiones sunt formalis *consensus* synodalis circa quædam argumenta, quæ magni momenti considerata sunt a Patribus synodalibus et ab iisdem altius pertractata. Sunt suggestiones Sancto

These proposals are presented as suggestions to the Pope and express the desires of the assembly to help the Supreme Pontiff in his pastoral task. They can serve as a useful basis for the Pope's preparation of the post-synodal apostolic exhortation, the publication of which concludes the Synod process.

The manifestation of advice on the subject matter proposed for discussion by the Synod Fathers can be seen in the context of the consultative or deliberative functions of the Synod of Bishops, and we shall have occasion to return to it in the course of this work. But the abundance of details and precise prescriptions formulated on this subject in the rules of the Synod and in the *Explanationes*¹³⁹ already shows the importance attributed to these opinions or advices, which constitute the principal fruit of the meeting of the synodal assembly.

It - CONSULTATIVE FUNCTION OF THE SYNOD OF BISHOPS

As the Motu proprio *Apostolica sollicitudo* states, it is proper to the Synod of Bishops, by *its very nature*, to give information and advice (to the Sovereign Pontiff)¹⁴⁰. The consultative function of this body could not be better affirmed¹⁴¹. By providing information, advice or even wishes on

Patrioblate tamquam fructus opera synodalis. Ad ipsum spectat earum usum decernere". Articles 56 to 60 of the *Vademecum* speak of *Velenchus unicus Propositionum* which, once discussed, amended if necessary and voted on, constitute the visible fruit of the Synod's work.

139 *U Ordo Synodi*, or Regulations of the Synod of Bishops, provides for the process of expressing and discussing opinions (articles 23-26 and 35), and the process of voting and amending synodal proposals (articles 38-39).

140 "Ad Synodum Episcoporum suapte natura munus pertinet edocendi et consilia dandi" (*Apostolica sollicitudo* II, in AAS 57 [1965], p. 776).

141 The authors are unanimous in recognizing the eminently consultative character of the Synod of Bishops. Cf. G. ALBERIGO, *Il Sinodo dei Vescovi e la struttura del governo centrale della Chiesa in Questitalia* 10 (1967), p. 5; À. ANTÓN, *Sinodo e collegialità extraconciliare dei Vescovi*, in V. FAGIOLO & G. CONCETTI, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, pp. 75-77; J. I. ARRIETA, *El Sinodo de los obispos*, Ediciones EUNSA, Pamplona, 1987, p. 174; W. BERTRAMS, *Struttura del Sinodo dei Vescovi*, in *Civiltà Cattolica* (1965), 136/IV, p. 421; Id. *commentarium in Litteras Apostolicas "Apostolica sollicitudo"* in *Periodica* 55 (1966), pp. 121 ff; Id. *De Synodi episcoporum potestate cooperandi in exercitio potestatis primatialis*, in *Periodica* 57 (1968), pp. 539 ff; P. COLELLA, *Brevi osservazioni sul Sinodo dei Vescovi*, in *Diritto ecclesiastico* 80 (1969), p. 538; Id. *Collegialità episcopale e Sinodo dei Vescovi*, in *La Chiesa dopo il Concilio*, Giuffrè ed., Milan, 1972, voi. 2, pp. 345-346; G. CONCETTI, *Bilancio e documenti del Sinodo dei Vescovi*, Milan, 1968, pp. 18-20; V. FERRARA, *Il Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 (1969), p. 502; P. HUIZING, *Struttura el Sinodo dei Vescovi*, in *IDOC* 67/2 (27-1-1967), p. 5; F. ROMOA, *Il Synodus Episcoporum*, in *Monitor Ecclesiasticus* 43 (1968), p. 419; A. MARRANZINI, *7 Sinodo organo della "sollecitudine pastorale dei Vescovi" per il popolo di Dio in la Rivista del Clero Italiano* 64 (1983), pp. 854-855; G. P. MILANO, *H Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milano, 1985, p. 262; F. X.

certain specific matters, and by offering its best advice at the request of the higher authority that requires it, the Synod assumes the essential role for which it was instituted.

As to the subject matter on which the Synod is called to fulfil its consultative function, both the *Motu Proprio* and the Regulations (*Ordo Synodi episcoporum celebranda*) remain silent and do not place any restrictions on the field of possible subjects to be dealt with. W. Bertrams has argued: *the authority of the Synod seems to relate primarily the legislative function of the supreme government of the Church and not to its executive function, except perhaps in extraordinary cases of great importance*¹⁴². Similarly, K. Mòrsdorf considers that the consultative function of the Synod embraces above all the legislative domain¹⁴³.

H - 1. Value to be given to the opinions and wishes expressed by the Synod

To say that the Synod has essentially a consultative function is to say that the Pope remains free with regard to a recommendation or option adopted by the Synod assembly and decides in conscience according to what seems to him to be the most just and prudent, without being in any way bound by the Synod. But this does not mean that the Synod has no value or that the opinions or proposals presented are without decision-making

MURPHY, *Significato pastorale del Sinodo dei Vescovi* in *IDOC 67/8* (2-05-67), p. 1; E NIGRO, *Artide "Sinodi dei Vescovi"*, in *Dizionario del Concilio Vaticano II*, a cura di S. Garofalo, Unione Editoriale, Rome, 1969, col. 1852; J. TOMKO, *Il Sinodo dei Vescovi Giovanni Paolo II*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Método, Prospettive*, Libreria Editrice Vaticana, Rome, 1985, pp. 13-44.

142 W. BERTRAMS, *Commentarium in Litteras Apostólicas "Apostólica sollicitudo"* in *Periodica 55* (1966), pp. 120-121.

143 K. MORSORF, *Synodus Episcoporum*, in *Archiv für Katholisches Kirchenrecht* 135 (1966), p. 133. Likewise for Capocasa, "L'attività dei Vescovi nel Sinodo è una attività prevalentemente legislativa, che si attua in questa emissione di pareri e che si concretizza in norme giuridiche emanate dal Romano Pontefice" (G. CAPO-CASA, *Il Sinodo dei Vescovi istituito dal Motu proprio "Apostólica sollicitudo"*, Dissertatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe, Rome, 1975, p. 116).

impact Paul VI¹⁴⁴ and later John Paul II¹⁴⁵ affirmed and recognized the weight and importance they gave to the opinions expressed by the synodal assembly.

"This collegiality is manifested especially in the collegial way of speaking of the pastors of the local churches. When the latter, especially after a good community preparation in their churches and a good collegial preparation in the episcopal conferences, conscious of their responsibilities for their particular Churches, but also in solicitude for the universal Church, *bear common witness to the faith and the life of the faith*, their decision, if it is practically unanimous, has an ecclesial qualitative weight which goes beyond the simple formal aspect of a consultative vote^{*146}.

The opinions or wishes expressed by the Synod of Bishops are of particular importance, even if they are only wishes, because they reflect a common opinion of the episcopate on current questions awaiting solutions. For Cardinal Wojtyła, *a votum of the Synod of Bishops, which formally is only a consultation for the Head of the Church, is at the same time a witness to the faith and life of all the Churches, a witness expressed by the bishops with all the responsibility they have for these Churches and formulated with the solicitude they have for the whole Church* the collegial vote also reflects the faith and life of the Church in the one universal Church¹⁴⁷.

144 "Therefore, Venerable Brothers, although your office in this Synod of Bishops is normally consultative (cf. art. II of the *Motu proprio Apostolica sollicitudo*), it is, however, most authoritative for Us, who have called you to this consultation and who, in particular cases, will confer on your opinion a deliberative value; it is most authoritative for the whole Church, which recognizes in you teachers, witnesses and pastors of the People of God in a specially qualified exercise of their noble ministry" (PAUL VI, *Allocution for the first meeting of the Synod of Bishops*, 30 September 1967 in *Catholic Documentation* 1503 [1967], p. 1737)...I...

In this connection, We feel obliged to assure you that we shall be concerned, pleasantly pleased - even more than clearly obliged - to give the greatest consideration to the follow-up to the **expressions of opinion**, that is to say, to the votes which you, venerable Brethren, have expressed this morning and handed over to the President of the Synod" (PAUL VI, *Address at the close of the Synod of Bishops*, 27 October 1969, in *Catholic Documentation* 1551 [1969], p. 1011).

145 *The Synod of Bishops, the legacy in the Church of the Second Vatican Council, is truly a great good (...). While formally the **consultative** character of its work dominates, it is difficult to overlook the extent to which these **consultations** simultaneously have an ecclesial significance. It is therefore all the more important that the documents issued after the Synod reflect the common thought of the synodal assembly and of the Pope who presides *ex officio*" (JOHN PAUL II, *Closing Address to the Synod of Bishops*, 29 October 1983, in *La Documentation Catholique* 1863 [1983], p. 1080).

146 JOHN PAUL II, *Address to the General Council of the Synod*, 30 April 1983, in *Catholic Documentation* 1854 (1983), p. 612.

147 K. Wronka, *Sul Sinodo dei Vescovi*, article published on March 5, 1972 in *Tygodnik Powszechny* 26 (1972) no. 20, in G. SARAI- (a cura di), *Karol Wojtyła e il Sinodo*

It is true to say, with G. P. Milano, that the consultative and deliberative functions in the passage from the juridical to the ecclesiological level assume completely different expressions¹⁴⁸. *Above the categories consultative/deliberative, there is a unique potestas sacra, whose characteristic contents are related to the witness of faith, and which cannot be broken down into functions*¹⁴⁹. With regard to the consultative function of the Synod of Bishops, Father Bertrams does not hesitate to speak of an *exercitium potestatis*, the purpose of which is to cooperate, in virtue of the *potestas* received sacramentally, in the office of the Supreme Pontiff by giving him advice¹⁵⁰. This advice has an "auctoritativa" value because of the sacramental origin of this *potestas*, which empowers the Synodal Fathers to help the Pope in the fulfilment of his office as Pastor of the Church.

On the juridical level, the difference between the deliberative and consultative functions is fundamental because it underlines the ultimate responsibility of the decision adopted (decision of the head of the Church or decision of the synodal assembly united to its head) and it highlights the importance of a very precise and strictly required form for the valid adoption of a measure concerning the good of the Church

Let us recall now that the episcopal ministry involves above all *witnessing*, which is the primary responsibility of the bishop and lies at the heart of his functions¹⁵¹. In this regard, the Constitution *Lumen Gentium*

dei Vescovi, Città del Vaticano 1980, p. 310.

148 "Incertezza derivata, se possiamo dire, dalla non chiara percezione dei contenuti della funzione consultativa e della funzione deliberativa, che nel passaggio dal piano giuridico a quello ecclesiological, assumono espressioni completamente diverse, non sempre percepite in dottrina" (G. P. MILANO, *Forms and contents of consultative activity in the Church, with particular reference to the Episcopal College in Ephemerides Iuris Canonici* 46/2-3 [1990], p. 299).

149 "Non va comunque dimenticato, proprio per una più adeguata comprensione delle varie forme di partecipazione dell'Episcopato al governo della Chiesa, che al di sopra delle categorie consultivo-deliberativo, sta una *potestas sacra* i cui contenuti tipici risiedono nella testimonianza della fede, che di per sé è insuscettibile di essere scomposta in funzioni" (G. P. MUDANO, *ibid.*, p. 299).

150 "Hac ratione munus "edocendi et consilia dandi" constituit *exercitium potestatis*, - quae sacramentaliter confertur et hic concrete determinatur tamquam cooperatio per influxum realem et efficacem in exercitio potestatis supremi Pastoris eo, quod supremo Pastori consilia danda sunt

"Hinc explicatur consilia Synodi esse quam maxime *auctoritativa*, quia haec consilia dantur in virtute potestatis sacramentaliter collatae, ut haec, pro fine concrete obtinendo modo legitimo determinato, in Ecclesia exercentur. Hic finis est in hoc casu cooperatio habenda per modum consilii, ad potestatem per supremum Pastorem pro tota Ecclesia exercendam" (W. BERTAMS, *De Synodi episcoporum potestate cooperandi in exercitio potestatis primatialis*, in *Periodica* 57 [1968], p. 539).

151 In this regard, it is interesting to refer to the article by A. Ziegenaus, in which the author develops the theme of the bishop as a witness and authentic teacher of the faith (A. ZIEGENAUS, *Il vescovo, testimone e dottore autentico della fede*, in *I vescovi e il loro ministero* [a cura di P. Goyret], Libreria Editrice Vaticana, Rome, 2000, pp. 103-114).

clearly emphasizes the mission of teaching and preaching which the bishops received from the Apostles. It is recalled that *in order to accomplish this mission, Christ promised the Apostles the Holy Spirit, and on the day of Pentecost he sent him from heaven so that, by his virtue, the Apostles might be his witnesses to the ends of the earth before nations, peoples and kings*¹⁵²

On the theological level, it must be recognized that the concept of *witness*, a fundamental element of the bishop's mission, necessarily absorbs both the deliberative and consultative functions, shifting the emphasis from the realm of *formal authority* or *potestas*, if one prefers, to that of authoritative counsel, that is, highly qualified counsel, which prepares the final decision¹⁵³. There is both a kind of essential continuity and complementarity between the two functions, the deliberative function conferring *formal effectiveness* on the decision adopted, while the advisory function confers *substantial effectiveness*. This was clearly stated by E. Corecco when he argued that consultative and deliberative votes have a value that is ecclesiological quite similar¹⁵⁴. A. Anton does not express himself differently when he says that *in P Church the "manifestatio sententiae" is not an exercise of power but the recognition of a communion*^{*2}. In fact, according to him, the weight of an advisory opinion, even if it loses its value when considered on a formal and

According to him, "Episcopal consecration qualifies the ordinate to represent Christ in a visible way and to act in persona Christi. For this reason the vescovo is a qualified and authentic witness, that is to say: the vescovo is not a simple representative, but an intimately convinced and therefore authentic witness. Questo testimone può trasmettere in qualità di direttore la fede in corrispondenza alla situazione storica (*Ibid.*, p. 108).

152 LG 24. It is also recalled in LG 25 that "Inter precipua Episcoporum munera eminet predicatio Evangelii. Episcopi enim sunt **fidei praecones**, qui novos discipulos ad Christum adducunt, et **doctores authentici** seu auctoritate Christi preediti, (...) ab omnibus tamquam **divinae et catholicae veritatis testes** venerandi sunt".

153 In relation to the *potestas*, we can refer with profit to what P. Goyret says, when he describes the *munus regendi* of the bishop: "En definitiva, se llega así a entender el *munus regendi* como una realidad que despliega su ejercicio según dos estilos formalmente diferentes: mientras que por los consejos, exhortaciones y ejemplar pone en acto un modo persuasivo de gobernar, por *lapotestas iurisdictionis* ello se desarrolla a través de la vinculación jurídica. No se trata, sin embargo, de una oferta opcional de estilos de gobierno, sino de la conceptualización teológica de la realidad misma de labor de gobierno... Debe sin embargo matizarse que entre los *consilia*... y los actos jurídicos no existe una distinción en compartimentos absolutamente estancos, y en esto sale una vez más a la luz la unidad de la potestad episcopal" (P. GOYRET, *El Obispo, Pastor de la Iglesia, Estudio teológico del munus regendi en Lumen Gentium* 27, EUNSA, Pamplona, 1998, p. 233).

154 "H voto consultivo acquista una valenza non molto dissimile da quella del voto deliberativo, sia perché esprime istituzionalmente un rapporto di reciprocità necessaria, sia perché non esprime una posizione giuridica di potere ma **una testimonianza** di fede la cui forza vincolante non può essere misurata e delimitata adeguatamente in termini giuridici" (E. CORECCO, *Ontologia della sinodalità*, in **AA. W.**, *La sinodalità nell'ordinamento canonico*, Padova, Editrice Dott. A. Milani, 1991, p. 21).

juridical level, still has a highly qualified ecclesial significance which goes far beyond the categories of advisory *or* deliberative¹⁵⁵.

The considerations developed so far have shown us that the *votum* of the Synod of Bishops is not simply an opinion, *but a witness given together by* a certain number of Bishops, each of whom is responsible for the faith of the particular Church which has been sacramentally entrusted to him. This particular Church, linked to the other particular Churches by an ontological bond of communion, is moreover intrinsically inserted into the universal Church by a relationship of identification which allows the whole to be recognized in the part¹⁵⁶. If the Church is thus structured by a relationship of immanence which unites it to its pastor and which unites the latter to the other pastors by manifesting itself in a communion of ministries, it can be concluded that the function carried out by the bishops assembled in Synod is ultimately to realize concretely the communion of the Churches and to make it operative alongside the Pope, as the one Church of Christ¹⁵⁷.

II - 2 The nature of the power exercised by the Synod of Bishops in its consultative function

We have just shown that the function of the Synod of Bishops, *suapte natura*, is to give information and advice; the question now arises whether this function belongs properly to the participants in the Synod as an ordinary power, or whether it is simply a power delegated by the Supreme Pontiff for a particular service, to facilitate his task as Supreme Pastor

155 "In altre parole, il peso di tale voto perderebbe di valore, se lo si guardasse soltanto sotto l'aspetto formale e giuridico, mentre in realtà ha sempre un significato qualitativo ecclesiale che va molto al di là di queste categorie" (À. ANTÓN, *Ibid.*, p. 79). J. Tomko also develops the same argument: "The question of the vote cast for the Holy Spirit is elevated to the level of an ecclesiological reflection and seen in the context of the Church as an organism of unity and faith, avoiding and overcoming the stretches of a legal dialectic of the consultative-deliberative". TOMKO, *Il Sinodo dei Vescovi e Giovanni Paolo II*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 39).

156 According to the letter *Communio in notio*, "(the particular Churches), as parts of the one Church of Christ, have with the whole, that is, with the universal Church, a relationship of mutual interiority, because in each particular Church the one, holy, catholic and apostolic Church of Christ is truly present and active" (CN 9).

157 According to Corecco, "at the level of the universal Church, the consultative vote can be used to express the relationship of sinfulness within the primary ministry of the Pope in the face of other vestries. As a personal soggetto through which the Collegio dei Vescovi becomes operative, the Pope, while remaining uniquely responsible for his own action, is determined by the relationship of sin in relation to the other vassals, both because of the fact that he is invested with the same Sacramento and the same Word, and because of the fact that the Church of Rome, where he is a vestryman, belongs in a constitutive way to the *Church community*" (E. CORECCO, *Ontologia della sinodalità*, in AA. W., *La sinodalità nell'ordinamento canonico*, Padova, Editrice Dott. A. Milani, 1991, p. 21).

II - First sentence: The potestas consultiva is an ordinary and proper power of the Synod of Bishops

According to some theologians, the participants in a Synod of Bishops exercise an ordinary and proper power when, in their consultative function, they give information or advice.

We shall take into account here the opinion of certain authors, renowned in the field of the canonical discipline of the Church, such as W. Bertrams, F. Romita, W. Aymans, G. P. Milano.

II - 2.1.1 W Bertrams' position

According to W. Bertrams, *through the Synod of Bishops, the College of Bishops exercises the charge it received from the Christ to pamper the government the universal Church*¹⁵⁸.

Bertrams does not, however, consider the activity of the Synod of Bishops as an exercise *natura sua* of the supreme *potestas* of the Church¹⁵⁸, but he does affirm that the synodal institute possesses a proper and ordinary power in relation to the universal Church.

His reasoning is based on the fact that the College of Bishops participates in the solicitude of the whole Church:

in virtue of this, the College of Bishops must be called to participate in the solicitude for the universal Church in one way or another, depending on whether the determination of the acts affecting the universal Church which are to be carried out by the College is a matter for the Supreme Pontiff. But the College, when it is called upon to participate in such a solicitude, always acts *inauthoritative manner* even when it is assembled *in modo consultivo*. Therefore it follows that the *munus* of the College which participates in the solicitude for the universal Church constitutes a true power, independent of whether it is exercised in a deliberative or consultative manner¹⁵⁹.

The episcopal consecration legitimately received incorporates the newly elected bishop into the College of Bishops and empowers him to participate in the common responsibility for the universal Church¹⁶⁰. This

¹⁵⁸ "Altera ex parte activitas huius Synodi Episcoporum natura sua non constituit exercitium *suprema potestatis Ecclesia* (...). Coetus Episcoporum, etsi Episcopi catum constituentes repraesentant alios, ipsam potestatem a Christo Domino toti corpori Episcoporum conceditam non habent" (*Ibid.*, pp. 122-123).

¹⁵⁹ W. BERTRAMS, *Commentarium in Litteras Apostolicas "Apostolica sollicitudo"* in *Periodica* 55 (1966), p. 124.

¹⁶⁰ Cf. what was said about *collegiality in the broad sense* in the first part of our work in Chapter IV, § X - 2. Father Bertrams says in this regard: "Omnes modi, quibus Episcopi realem influxum habent in exercitium *suprema potestatis*, etiamsi hac a *supremo Pastore* personaliter exerceatur, *collegialem cooperationem* in hac potestate exercenda constituunt" (W. BERTRAMS, *De Synodi episcoporum potestate cooperandi in exercitio potestatis primatialis*, in *Periodica* 57 [1968], p. 538).

power of participation, which is conferred at episcopal ordination precisely that which the bishops, as representatives of the Episcopal Body, implement when they meet in Synod¹⁶¹. In the very activity of the Synod of Bishops, the College of Bishops, represented by the Synod Fathers, exercises its *munus* for the government of the universal Church:

"Therefore, the *munus* to be exercised by the Synod of Bishops has its foundation in the Lord himself, inasmuch as through this *munus*, - which is exercised in the name of the whole episcopate, the College influences the government of the universal Church Through the activity of the Synod of Bishops, the College of

Bishops exercise the *munus* they have received from Christ in order-participate the government of the universal Church¹⁶².

The *munus "edocendi et consilia dandi"* (the office of informing and teaching), which is exercised in the Synod of Bishops, is a proper and ordinary power, is none other than that possessed by the bishops with regard to the universal Church. W. Bertrams sums up his position as follows: - *Therefore the "potestas" of the Synod of Bishops is ordinary. It is also proper, because the College of Bishops endowed by God with this office (munus) is able to participate in the government of the universal Church. Moreover, the bishops exercise in the Synod the "potestas", which in substance has been conferred on them sacramentally and has been specified for them by the canonical determination¹⁶³.*

F. Nigro's opinion is in harmony with W. Bertrams' way of seeing things since he says:

*The foundation of the consultative function is to be found in the powers which Christ has conferred on the Episcopal Body for the pastoral government of the Church, communicated in a sacramental manner to each of the bishops to be exercised in hierarchical communion. Such a power derived from the collegial power of the episcopate and attached in a stable manner to the synodal assembly is ordinary and proper¹⁶⁴.

U-2.1. 2. Position of E Romita and G. P. Milano

The bishops who take part in the Synod do not exercise the collegial power which belongs proper to the universal episcopate, but rather their individual responsibility universal Church: *the bishops in the Synod do not*

161 "Non potest satis efferi Synodum Episcoporum suum munus absolvere in virtute doni Spiritus Sancti ideoque muneris pascendi sacramentaliter collati, ut (collegialiter etiam) cum supremo Pastore exerceatur in bonum totius Ecclesia" (W. BERTRAMS, *Ibid.*, p. 539).

162 W. BERTRAMS, *Commentarium in Litteras Apostolicas "Apostolica sollicitudo"* in *Periodica* 55 (1966), p. 124.

163 W. BERTRAMS, *op. cit.*, pp. 125-126.

164 F. NIGRO, *Artide - Sinodi dei Vescovi*, in *Dizionario del Concilio Vaticano II*, a cura di S. Garofalo, Unione Editoriale, Roma, 1969, col. 1852.

*have and do not exercise true collegial power, but they do participate truly and effectively, together with the Roman Pontiff, in the Synod and through the Synod itself, in pastoral care of the universal Church*¹⁶⁵.

For G. P. Milano, too, *the members of the Synod cannot commit the charism of the College of Bishops, given the impossibility of being constituted representatives of it. This is because it is impossible for the witness of the whole Church which resides ontologically in the Ecumenical Council, to be concretised in a restricted and representative body*¹⁶⁶. - According to him, however, the role of the bishops is not limited to that of advisors to the Pope, but has an eminently ecclesial value, because they visibly integrate the ontological dimension of communion in the Church and are sacramentally made participants in the solicitude of the whole Church¹⁶⁷. This role is not, therefore, comparable to that of privileged advisors or consultative bodies such as are found in the sphere of civil, economic or political institutions. Thus the consultative function, which is different from the *potestas collegialis*, is the proper and ordinary prerogative of the synodal institution¹⁶⁸.

For F. Romita, the Synod of Bishops is the subject of an ordinary and proper consultative power, but one that can only be exercised extraordinarily:

The consultative power is ordinary and proper, because it is inherent in a perpetual or stable way to this ecclesiastical institution erected by the Roman Pontiff (

Just as the Ecumenical Council has an ordinary power of its own¹⁶⁹, but

165 F. Romita, *Il Sinodus Episcoporum*, in *Monitor Ecclesiasticus* 43 (1968),

166 The members of the Synod cannot involve the charism of the Episcopal College, since they cannot be constituted as representatives of it. This is because it is not possible to give concrete expression, in real and representative bodies, to the witness of the faith of the whole Church, which is expressed ontologically in the Ecumenical Council" (G. P. MILANO, *Forms and Contents of Consultative Activity in the Church, with Particular Reference to the Episcopal College in Ephemerides Iuris Canonici* 46/2-3 [1990], p. 306).

167 "Ecco perché nel Sinodo, al di là della configurazione come corpo consultivo, i vescovi non si limitano ad essere i consiglieri del Papa; In fact, because they visibly integrate with him the ontological dimension of the Church as a community, they maintain their own sacramental investiture as giudici and maestros for the universal Church, besides being witnesses of the faith of the particular Chiesa affiliated to them. The function of these leaders, although it is on an ecclesiological level less expressive than when the Council of Vespers was united, always with the Pope, in the Ecumenical Council, remains altogether autonomous; And yet, as we can see from the above considerations, it is not comparable to the activity - which is still institutionally relevant - of the consultative bodies operating in the field of legal ordinances" (G. P. MILANO, *Ibid.*, p. 303).

168 G. P. MILANO, *Ibid.*, p. 304; cf. also G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milano 1985, p. 262: "Che la funzione consultiva di ordine generale (non limitata cioè in linea di principio quanto all'oggetto) sia prerogativa propria ed ordinaria è opinione ampiamente condivisa in dottrina e ribadita in numerosi interventi pontefici"

169 For the sake of clarity, let us recall that the qualifier *ordinary* is opposed to

it exercises it only in an extraordinary way¹⁷⁰ :

other hand, the consultative power of the Synod, which is ordinary and proper, is not exercised in an ordinary way, but rather in an extraordinary way: whenever the Roman Pontiff convokes it with reference to those matters which he wishes to propose to it and according to the order which he himself has decreed^{*171} .

II - 2. 1. 3, W Aymans' position

Another author, W. Aymans, also favours the view that gives great weight to the opinions issued by the Synod of Bishops, but he attributes the strength of the ordinary and proper consultative function of the Synod to its natural physiognomy, that is, to the grouping together in it of prudent, wise and experienced men¹⁷² . He sees no reason to appeal to the technical concepts of jurisdiction or *potestas*, as Father Bertrams does, to analyze the consultative function of the Synod of Bishops he find it useful to have recourse to the Ecumenical Council to prove that the Synod exercises ordinary power¹⁷³ .

In response to Fr. Bertrams who wants to derive the ordinary power of the Synod from the episcopal consecration of the participants, Aymans objects that it *would be necessary to clarify at all costs how members who have not received episcopal ordination arrive at the necessary potestas, and what character has been conferred by such potestas as distinguished from the sacramental potestas*[^]. He concludes finally that the Synod of Bishops, ordinarily, has the right to make known to the Pope its determined opinions

delegated, and that the term *proper* means *not vicar*. It is therefore a question of a power which is not delegated to him, and which he exercises in his own name.

170 To say that the consultative power is *ordinary* means that this power belongs to the Synod in an ordinary way, that it is not delegated to it. In this case the word *ordinary*, taken in the technical sense, is opposed to *delegated*. To say that this power can be exercised only in an extraordinary way, means that this power will be put into action only on rare occasions, whenever the synodal assembly is convened. In this case the word *ordinary* used in the sense of the spoken language is opposed to *extraordinary* or *exceptional*.

171 F. ROMTTA, *op. cit.*, p. 419

172 W. AYMANS, *Das synodale Element in der Kirchenverfassung*, M. Hueber Verlag, München, 1970, pp. 255-260. The same author does not hesitate to state that the eminently consultative character of the Synod derives from its statutes: "Nach der Konzeption der Statuten ist diese beratende Funktion der Synode so sehr zu eigen, daß sie gesetzsprachlich als in der Natur dieser Synode begründet bezeichnet wird" (*Kritische Erwägungen zum formellen Beschlußfassungrecht der Bischofssynode*, in *Archive für katholisches Kirchenrecht*, 1968, pp. 126).

173 W. AYMANS, *op. cit.*, p. 256: "Als Beispiel führt er (W. Bertrams) das Ökumenische Konzil an, das zweifellos ordentliche Gewalt hat. This example can still not be taken seriously, because the Ecumenical Council has its own violence much worse than the Church Synod. Das Ökumenische Konzil hat - einmal angerufen - *ipso jure* seine Entscheidungsbefugnis in allen Fragen, die zur Behandlung anstehen*.

in a collegial manner¹⁷⁴. But this right is not a power. Nor does this right derive from the ordinary power conferred by episcopal ordination.

In any case, even if they differ on the qualification of the synodal institution in the order of representativeness, W. Bertrams, G. P. Milano, F. Romita, W. Aymans agree that the participants in the Synod of Bishops exercise their own authority in an ordinary way, either as representatives of the College, or as bishops and pastors of their local Churches, or as persons endowed with prudence and experience

II - 2.2 Second seed: the potestas consultiva is a delegated power

Other authors consider that the consultative function of the Synod of Bishops is a function delegated by the Pope, which does not belong to the Synod as such, but is granted to it by a positive delegation from the Pope whenever he deems it opportune

Colella sees the Synod in its consultative function as a kind of participation in the final decision of the Supreme Pontiff, even if its activity is not an exercise of the *potestas jurisdictionis*, since it is not normally granted a power of decision.

It is evident that the opinions, views and wishes of the Synod of Bishops inform, assist and advise the Supreme Pontiff and thus can have a real influence on his decisions, which should not be underestimated. However, it is undeniable that this activity, which is undoubtedly important and significant, does not constitute a positive exercise of the *potestas jurisdictionis*, since any decision-making power is normally excluded. It is also true that one can speak of a participation, if only mediate, in the supreme power of the Church, through the collegially expressed consultative function, especially when it is qualified as *assai autorevole*¹⁷⁵, but it seems all too clear to us that it is not a question of the exercise of powers, since the opinions of the episcopal synod have no binding force, not even partial, on the juridical level, and the Supreme Pontiff is completely free of any obligation with regard to the opinions formulated and expressed*¹⁷⁶.

¹⁷⁴Zusammenfassend ist festzuhalten: Die Bischofssynode hat in ordentlicher Weise das Recht, dem Papst kollegial gefaßte Voten zu den anstehenden Fragen zu erteilen" (W. AYMANS, *op. cit.*, p. 260).

¹⁷⁵Allusion to the speech of Paul VI at the first session of the Synod of Bishops in 1967 (PAUL VI, *Allocution for the first meeting of the Synod of Bishops*, September 30, 1967 in *La Documentation Catholique* 1503 [1967], p. 1738).

¹⁷⁶COLELLA, *Brevi osservazioni sul Sinodo dei Vescovi*, in *Diritto ecclesiastico* 80 (1969), p. 363. The author adds: "The fact that the bishops participate in the Synod as appointed by the Pope or elected by the Episcopal Conferences and not as members of the College, and the fact that the Supreme Pontiff does not take part in this assembly, even if he convenes it, participates in its sessions, or attends its work (...), are later elements which

A. Marranzini, G. Alberigo consider that any power exercised during the Synod of Bishops is a power delegated by the Pope, and that in virtue of their episcopal consecration the bishops are capable of receiving consultative power.

"By its nature the *votum* of the Synod is consultative, the delegate bishops having no authority to legislate for the universal Church (...).

"The consultative power of the Synod, and the deliberative power which might also be conferred upon it, are granted to it solely by the Pope, to whom it belongs in each case to ratify its decisions. Such power can be given to the bishops gathered in Synod, because they have the receptive capacity in virtue of their consecration^{*177} .

The exposition of these different points of view which we have just stated shows that there is no unanimity among the authors as to the nature of the power exercised by the Synod of Bishops when it performs its consultative function. Some see the bishops gathered in Synod as simply exercising the ordinary power proper to each one by reason of their episcopal character and their solicitude for the universal Church. Others consider the bishops gathered in synod as exercising in a broad sense the collegial power proper to the universal episcopate. Others, though fewer in number, see the activity of the Synod of Bishops as the result of delegation by the Pope.

The College of Cardinals in comparison with the Synod of Bishops

II - 3.1 Some historical background on the College of Cardinals

Let us briefly recall some basic notions about the College of Cardinals¹⁷⁸

reinforce our thesis" (*Ibid.*, pp. 364-365).

177 A. MARRANZINI, *Il Sinodo organo della "sollecitudine pastorale dei Vescovi" per il popolo di Dio*, in *la Rivista del Clero Italiano* 64 (1983), pp. 854-855.

Similarly, according to Giuseppe Alberigo: "It is the consultative function that provides the reference point for determining the nature of the Sodo and also for all the norms that regulate its formation and functioning. (...) although the **consultative function is inherent in the very nature of the Sprit, its possible deliberative capacity depends exclusively on an attribution of relative power by the Father.** when there is a deliberative capacity it is not derived from God through the episcopal consecration of its members, but from the Father" (G. ALBERIGO, *Piramide di potere e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*, Editrice A. Mondadori, Verona, 1969, p. 145).

178 The following books or articles can be referred to for some summary information on the history and composition of the College of Cardinals: A. BRIDE, *Article "College (Sacred)"* in *Catholicism* II, col. 1307-1308. V. MARTIN, *Les Cardinaux et la Curie*, Éditions Bloud et Gay, Paris, 1930; N. del RE, *La Curia Romana*, Libreria Editrice Vaticana, 1998; E. GATZ, *Article "Kardinall Kardinalskol- legium"*, in *Theologische Realenzyklopädie*, Band XVII, W. de Gruyter, Berlin-New York, 1988, pp. 628-635; G. MARSOT and A. BRIDE, *Article "Cardinal"* in *Catholicism*, vol. II, Letouzey et Ané, Paris, 1949, col. 535-542;

. The term *cardinal* was originally used to describe those who held important positions in the Church. These essentially the cardinal priests who were titular of the 25 principal Roman churches founded in the IV^e century, the cardinal deacons in charge of the distribution of alms and administrators of works of charity (seven in number), and finally, from the VIII^e century, the cardinal bishops, pastors of the dioceses bordering on Rome, still called suburbicarian dioceses (seven in number, then reduced to six in the XII^e century).

From the XI^e century, Pope Leo IX began to award this dignity also to people outside the city of Rome, especially to monks who were artisans of the Gregorian reform. At the beginning of the XIII^e century the cardinalate was conferred on foreign bishops, in order to associate them with the government of the Roman Pontiff. The Council of Trent was favourable to the process of an internationalization of the Sacred College. But its desire to impose residence on clerics or bishops who had responsibility for souls led to the creation of two types of cardinals: the cardinals of the Curia, present in Rome to ensure the proper functioning of the Roman Congregations and the offices of the Holy See, and the cardinal-bishops who resided in their own dioceses. The title of cardinal-priest was then often given to bishops residing outside Rome, while the title of cardinal-deacon was given to priests, deacons and even non-deacon clerics (merely and symbolically tonsured). In 1919, Benedict XV decided that all cardinals should be at least priests. In 1962, John XXIII decided that from then on all cardinals should have received episcopal ordination⁰⁹.

In fact, the institution of the College of Cardinals, as such, dates only from the XII^e century, because until that time its advisory functions were fulfilled by the presbyterium, and then by the Roman Council, which were eventually supplanted by the consistories during the Pontificate of Alexander II. Cardinals existed before the Sacred College as a constituted body. The emergence of the College of Cardinals is linked to the election of the Roman Pontiff, which was and still is one of its main functions. In 1059, Pope Nicholas II first entrusted the cardinal bishops with the choice of the new Pope, with the mission of convincing the other cardinals and the clerics of the city of Rome of their choice. In 1179, the Lateran Council III, presided over by Alexander III, decreed that all the cardinals, and they alone, would be electors of the Pope, requiring a majority of at least two-thirds of the votes. This practice has prevailed to the present day, although the reform of Paul VI set an age limit of 80 years for the cardinal electors, members of the conclave¹⁷⁹.

J. FORGET, *Article "Cardinals"* in *DTC*, vol. II/2, col. 1717-1724.

179 Cf. PAUL VI, *Motu proprio Ingravescentem relaten*, 21 November 1970, in *Catholic Documentation 1575* (1970), pp. 1056-1057.

II - 3.2 *Difference and similarity between the Synod of Bishops and the College of Cardinals in the exercise of their consultative functions*

One may ask how the Synod of Bishops relates the other institutions connected with the government of the universal Church namely the Sacred College or College of Cardinals and the Roman Curia

It is true that the Motu proprio *Apostólica sollicitudo* says nothing on this question. Pope Paul VI, during the secret consistory of June 26, 1967, was content to reassure the cardinals that the creation of the Synod of Bishops would in no way diminish their influence: *But we have no intention of diminishing the dignity of the Sacred College.*

*lège. On the contrary, we think to honor him with the style which is proper to the ministers of the Church of God, that is, the simple dignity which befits their grave and high offices*TM.

The Pope acknowledges that following the creation of the Synod of Bishops, there was no shortage of voices calling for the abolition of the College of Cardinals, or at least its removal¹⁸⁰. However, according to him:

"We have no reason to change the discipline bequeathed to Us by Our most venerable predecessors. the contrary, We are convinced that the manifold demands of the Church advise the strengthening of the functions which the Sacred College has hitherto exercised in codified law, by soliciting in a wider and more systematic way the very useful services, both of each of its members and of the College which they constitute properly speaking. The function of the Sacred College is truly sacred and ecclesial, because it is destined to collaborate with the Supreme Pontiff in the government of the universal Church"¹⁸¹. It is clear, therefore, that the consultative function, reserved *natura sua* to the Synod of Bishops, in no way undermines the competence of the College of Cardinals, which is also called to collaborate with the Supreme Pontiff.

On 30 April 1969, Paul VI, in his address to the College of Cardinals, returned to this subject and tried to describe and distinguish the respective functions of the College of Cardinals and the Synod of Bishops, two bodies whose roles are complementary¹⁸². Both institutions are consultative in nature and assist the Pope in fulfilling his primatial office¹⁸³.

But the Synod reflects more directly the episcopal collegiality around the Successor of Peter, and exercises a consultative function with regard to the major orientations of the Church's action. In this body, qualified representatives of the episcopate of the various countries of the world, and with them and through them the clergy and the entire local communities, assist the Supreme Pontiff in the study and exact knowledge of general questions of interest to the whole Church, with a view to the decisions to be taken and then applied in concrete terms, without this taking

180 "There has been no lack of speculation, especially after the institution of the Episcopal Synod, as to the future of the Sacred College of Cardinals. Some have wished for its abolition, or at least a reduction in its importance and powers" (PAUL VI, *Ibid.*).

181 PAUL VI, *Ibid.*, p. 1304.

182 "Your function is not a substitute for that of the Episcopal Synod, just as the Synod is not a substitute for the College of Cardinals. These two bodies are complementary, especially because all the Cardinals are clothed with the episcopal character and because among the members of the Synod there are many Cardinals, and vice versa" (PAUL VI, *Allocution during the Consistory of Cardinals*, 30 April 1969, in *Catholic Documentation* 1540 [1969], p. 463).

183 "The functions of the Synod, like those of the Sacred College, are in themselves consultative in nature; they are connected with and subordinate to the supreme office of Vicar of Christ" (PAUL VI, *Ibid.*, pp. 463-464).

away from the Pope the prerogative of personal, universal and direct government, always for the good of the Church^{*184}. The Synod of Bishops rather symbolizes the collegial nature and activity of the College of Bishops. It allows the Pope to benefit from the common wisdom and experience of the local Churches, by bringing together their pastors or some of their representatives. In comparison should be noted that the episcopal character with which each cardinal clothed is a very recent obligation; and if the members of the Sacred College are now all bishops, this characteristic is rather accidental and does not essentially affect the nature of the College of Cardinals. The internationalization of the Sacred College also brings it somewhat closer to the physiognomy of the Synod, but the representativeness of the local Churches is far from being the same, both existentially and theologically¹⁸⁵. The particular role of the Sacred College is seen more in the context of the involvement of Cardinals in the Roman dicasteries, as Paul VI recalls:

◆ On the other hand, the consultative function of the Sacred College as such further emphasizes this prerogative of the Vicar of Christ, a prerogative at whose service it places itself in a more direct way. And it assures the Supreme Pontiff - the Cardinals being prefects or members of the dicasteries of the Curia - daily or in any case more assiduous assistance meets the requirements of the necessary continuity of his personal government. This does not prevent the Pope from using the Sacred College of Cardinals, without prejudice to the function which is more specifically proper to the Episcopal Synod, for functions which have points in common with those of the Synod, by reason of their purpose, and analogies, taking into account the diversity of the foundation of the two bodies¹⁸⁶.

According to Paul VI, the Sacred College better emphasizes the primacy of the Pope and the commitment of the Cardinals to the Curia and allows them to have a greater impact on the daily activities of the Church¹⁸⁷. Nevertheless, it is ultimately the Pontiff's decision to consult the institution he deems most appropriate. He remains perfectly free to consult one or the

184 PAUL VI, *Ibid.*, p. 464.

185 Paul VI, in an address, spoke of this symbolic representation of the College of Cardinals: "It is the synthesis of *Y Catholic Orb* no less than of *Y Urb* of Rome, but that in a form more symbolic and qualitative than quantitative" (PAUL VI, *Allocution*, 27 January 1965, in *Catholic Documentation* 1444 [1965], col. 513).

186 PAUL VI, *Allocution during the consistory of Cardinals*, 30 April 1969, in *Catholic Documentation* 1540 (1969), p. 464. The ancient Code of *Canon Law* particularly emphasized this special competence of the College of Cardinals: "S. R. E. Cardinales Senatus Romani Pontificis constituunt eidemque in regenda Ecclesia præcipui consilarii et adiutores assistunt" (*GIC* [1917], can. 230).

187 It should be remembered that all Cardinals residing in Rome or abroad, up to the age of 80, remain active in the Roman dicasteries, either presidents or as members

other, both, or neither, before making an important decision for the government of the Church

Pope John Paul II has on several occasions called the College of Cardinals into plenary session to hear their opinions¹⁸⁸. He has even been able to restore to a certain extent the consultative role of this assembly, sometimes called the Senate of the Church¹⁸⁹. In fact, until recent years, the cardinal's assembly no longer held frequent meetings as had been the case in the Middle Ages¹⁹⁰. For J. B. d'Onorio, by doing so, *the Pope has given full value to the function of privileged advisors to the supreme head of the Church, which has always fallen to the Cardinals*¹⁹¹. It is true, if we believe

188 It suffices to recall the convocation of the Sacred College in a plenary assembly from 5 to 11 November 1979 to discuss certain questions concerning the institutions of the Holy See, the relations between Church and culture, and the financial situation of the Holy See (cf. *Catholic Documentation* 1775 [1979], pp. 1001-1008).

From 23 to 26 November 1982, the College of Cardinals was again convened to discuss the reform of the Curia, the present state of the reform of *Canon Law*, and the financial situation of the Holy See (cf. *Catholic Documentation* 1843 [1983], pp. 1-10).

From 21 to 23 November 1985, the College of Cardinals met in plenary assembly to study the draft constitution dealing with the reform and reorganization of the Roman Curia and to discuss the financial situation of the Holy See (cf. *Catholic Documentation* 1909 [1986], pp. 10-13).

From 4 to 6 April 1991, the College of Cardinals was called upon to give its point of view on the theme of *the Church before the threats to life* and the theme of the *proclamation of Christ, the only Saviour, and the challenge of the sects* (cf. *Catholic Documentation* 2028 [1991], pp. 473-500).

On 13 and 14 June 1994, the College of Cardinals met again in an extraordinary assembly around Pope John Paul II, in order to discuss and elaborate the preparation of the Great Jubilee of the Year 2000 (cf. *Catholic Documentation* 2098 [1994], pp. 651-655).

Finally, the Supreme Pontiff called another meeting of the College of Cardinals from 20 to 24 May 2001 to study the prospects for the Church in the third millennium light of the recent Apostolic Letter *Novo millennio in eunte*.

189 The term *Senate* for the College of Cardinals appeared in the old Code of Canon Law (cf. *CIC* [1917], can. 230) and was often used by John Paul II in his interventions, e.g., in the consistorial addresses of February 2, 1983 (*Za Documentation Catholique* 1847 [1983], p. 253), of May 25, 1985 (*Za Documentation Catholique* 1900 [1985], p. 740), of June 28, 1991 (*Za Documentation Catholique* 2033 [1991], p. 718).

190 In the Middle Ages, the institution of the Consistory, in which cardinals from the various nations of Christendom took part, enabled the Pope to receive the opinions of the most authoritative figures in the Church, even for the current act of government. Trace is found as early as John VIII, but it was above all with Alexander III, and then Innocent III, that the Consistory was convened three times a week to constitute part of the supreme organization of the Church. "especially with the Roman Congregations which, in the 16th century, succeeded the Congregations which were frequently convened for the examination of particularly important problems posed to the Head of the Church" (C. LEFEBVRE, *Chronicle of the Acts of the Holy See, the Synod of Bishops, in the Canonical Year* 11 [1967], pp. 121-122). Cf. also the intervention of Cardinal Lercaro on December 8, 1963 at the 63rd General Congregation of the Second Vatican Council (*AS II*, vol. IV, p. 619): "Omnes Pontificum decisiones maiores non dantur nisi obsignatae ab omnibus membris Sacri Collegii".

191 J. B. D'ONORIO, *op. cit.*, p. 431.

G. Alberigo, that in the XV^e and XVI^e centuries, the personal form of the exercise of the power of government over the universal Church on the part of the Pope was constantly nuanced by the collegial form, expressed in the collaboration between the Pope and the College of Cardinals¹⁹².

A precise delimitation of the attributions of the Synod of Bishops and the College of Cardinals does not seem obvious. Pope John Paul II himself states that a strict distinction cannot be made between the matters to be dealt with by the two institutions¹⁹³. The Synod has not replaced the consultative role of the Cardinals¹⁹⁴. It is ultimately up to the Pope to decide when and on what matters to consult the College of Cardinals or the Synod of Bishops, and so far neither Paul VI nor John Paul II seems to have indicated any principles or guidelines that could guide such a decision. Even in canonical legislation, there is no reference to a particular area of consultation more appropriate to the College of Cardinals¹⁹⁵. The Pope's freedom remains the determining principle in choosing which institution to consult¹⁹⁶.

192 < È noto che per secoli tale collaborazione ha avuto la sua sede nel concistorio, nel quale più, volte la settimana, si istruivano, si dibattevano e si decidevano collegialmente sono la presidenza del Papa tutte le cause maiores, cioè tutte le questioni di maggiore interesse relative alla vita della Chiesa" (G. ALBERIGO, *op. cit.*, p. 147).

193 We need only quote the words of John Paul II in his address to the plenary session of the College of Cardinals on 5 November 1979: "It seems that the meeting of the College of Cardinals in the autumn of this year may profitably engage in an examination, at least in summary form, of some problems which are somewhat different from those on which the Synod of Bishops is working. These problems (...) are important, given the situation of the universal Church, and at the same time they seem to be more closely related to the ministry of the Bishop of Rome than those which should constitute the theme of the Synod of Bishops. **It goes without saying that one cannot speak here of a rigorous delimitation**" (JOHN PAUL II, *Address at the Opening of the Plenary Session of Cardinals*, November 5, 1979, in *La Documentation Catholique* 1775 [1979], p. 1002).

194 According to Fr Bertrams, "So much less should there be interference between the *Sinodo dei Vescovi* and the *Collegio dei Cardinali*. This is the Senate of the Roman Pontifical Council. In the direction of church affairs, according to the law and the current practice, the cardinals participate in the governance of the universal Church, especially because of the fact that they are affiliated to the Roman congregations. Il *Sinodo dei Vescovi* non muta nulla in tutto ciò" (W. BERTRAMS, *Struttura del Sinodo dei Vescovi*, in *Civiltà Cattolica* (1965), 136/IV, p. 422).

195 The *CIC* (1983), can. 349, is content to say: "Cardinales item Romano Pontifici adsunt sive collegialiter agendo, cum ad quæstiones majoris momenti tractandas in unum convocantur, sive ut singuli (...)"

Similarly, canon 353 § 1 does not provide any precision on this subject when it states: "Cardinales collegiali actione supremo Ecclesia Pastori precipue auxilio sunt in Consistoriis, in quibus jussu Romani Pontificis eoque presidente congregantur".

196 According to A. Acerbi "The only principle of coordination and union between these two independent branches of the central administration (the Sinodo and the Collegio Cardinalizio) is their subordination to the Pope. This strengthens the role of the Pope's government, who can avail himself of more instruments and is therefore more free in his personal activity (...). The above-mentioned asset, in which the discrete action of the Father seems to be the only structural principle, leads to the ultimate consequences of a secular

III - DELIBERATIVE FUNCTION OF THE SYNOD OF BISHOPS

While there is no doubt that the consultative power is proper to the Synod of Bishops, since *by its very nature the Synod of Bishops has the mission to inform and advise*¹⁹⁷, the Synod may be called upon in certain cases to exercise a deliberative power at the invitation of the Supreme Pontiff. As the *Motu Proprio* indicates the Synod of Bishops may also have *deliberative power when this power is given to it by the Supreme Pontiff, who in this case is responsible for ratifying the Synod's decision*

It is true that, since its institution, the Synod of Bishops has never been formally granted by the Pope the possibility of exercising deliberative power; its votes and opinions have always been confined to the consultative domain, according to the indications of the Roman Pontiff, but access to deliberative power is not excluded¹⁹⁸. On several occasions the Popes have spoken of this possibility. Let us recall that Pope Paul VI, at the inauguration of the first synodal assembly, expressed this desire to confer deliberative power on the Synod of Bishops in particular cases: "Therefore, *venerable brothers, if your office in this Synod of Bishops is normally consultative (cf. art. II of the Motu proprio Apostolica sollicitudo), it is nevertheless very authorized for Us, who have called you to this consultation and who, in particular cases, will confer deliberative value on your opinion*"¹⁹⁹.

There are two opposing positions regarding the nature of the *potestas*

process of affirmation of the freedom of the Father... Nella fase attuale Sinodo e Collegio Cardinalizio si fronteggiano e si pongono in prospettiva come due possibili strumenti alternativi, a tutto vantaggio della libertà del Papa" (A. ACERBI, *L'ecclesiologia sottesa alle istituzioni ecclesiali postconciliari in Cristianesimo nella storia* 2 [1981], pp. 218-220).

The opinion of G. P. Milano is no different: "This generosity, however, (...) in my opinion has a justification in itself, and this is in the same relationship of great dependence - always in reference to the consultative activity - of the two bodies of the Pope. A lui infatti spetta in ultima analisi la decisione se e per quali argomenti convocare il Collegio Cardinalizio per udirne il parere; così come a lui spetta stabilire gli argomenti all'ordine del giorno sinodale e stabilire altresì in quale forma debba riunirsi l'assemblea" (G. P. MILANO, *Forms and contents of consultative activity in the Church, with particular reference to the Episcopal College in Ephemerides Iuris Canonici* 46/2-3 [1990], p. 295).

197 *Apostolica Sollicitudo* II, in AA S 57 (1965), p. 776.

198 Let us recall that in the past the Roman councils, which were not Ecumenical Councils but simple particular councils bringing together the Pope and certain bishops, were on several occasions the place where decisions affecting the universal Church were taken. As Father Bertrams says: "It is known, for example, that from the fourth century⁰ to the eleventh century⁰ the Roman Pontiffs used to convene councils in Rome in which, although they were not ecumenical, decisions were taken that affected the whole Church not only the bishops of the dioceses closest to Rome who participated in these *Roman councils*, but also many others, especially those who were in Rome during the councils" (W. BERTRAMS, *Struttura del Sinodo dei Vescovi*, in *Civiltà Cattolica* 1965/ IV, p. 419, note no. 6).

199 *Allocation for the first meeting of the Synod of Bishops*, 30 September 1967 in *Catholic Documentation* 1503 (1967), col. 1738.

deliberativa: according to some, the Synod of Bishops exercises it in a proper and ordinary manner; according to others, it is exercised in a delegated manner (by delegation of the Supreme Pontiff).

III - 1. The Synod of Bishops, custodian of the *potestas deliberativa* in a proper and ordinary manner

This statement reflects the thinking of some authors who see the Synod of Bishops as an ordinary and proper place not only of the *potestas consultiva*, but also of the *potestas deliberativa*.

III - 1.1 Analysis and criticism of Father Bertrams' position

For Fr Bertrams, the deliberative power that the Synod of Bishops can exercise at the invitation of the Pope is an ordinary and proper power that belongs to the Synod by virtue of its nature, even if its exercise requires a papal mandate. W. Bertrams points out that in the universal Church there is no power that can be exercised collegially without prior authorization from the Supreme Pontiff

"The proper and ordinary power of the Synod is advisory, unless in specified cases it is explicitly declared to be deliberative. The fact that this power, in order to be deliberative, requires a special *ad hoc* mandate, does not prevent it from being, even in this case, an ordinary power. No power can be exercised collegially in the universal Church without the *ad hoc* authorization of the Supreme Pontiff (...). The classic example is that of the Ecumenical Council, which can exercise the supreme power of the Church (which is certainly ordinary and proper) by reason of its very nature as a Council, but only in an extraordinary way.... , the necessity of a special mandate for the Synod of Bishops to have deliberative power is in no way opposed to the ordinary and proper character of this power, which must be recognized, because it has been rightly established that the Synod of Bishops possesses deliberative power, *suppositis supponendis*. On the other *potestas consultiva* of the Synod can only be exercised if the canonically convoked Synod deals with the matters proposed to it and according to the established order; and this is a matter for the free decision of the Pope^{*200} .

93.W. BERTRAMS, *Commentarium in Litteras Apostolicas tApostolica sollicitudo*" in

the consultative function, which is ordinary and proper as we have seen in the preceding paragraph, or in the deliberative function, the Synod needs the approval of the Pope for the conduct of the debates and the organization of the synodal process

Periodica 55 (1966), p. 127. The author seems to mean that either it is a question of

At first glance, this comparison with the Ecumenical Council seems convincing: the Council cannot do anything without the Pope's convocation of its members; it cannot carry out its work without his approval; and finally, it cannot decide anything without his ratification of the decrees adopted. In fact, this analogy between the Synod of Bishops and the Ecumenical Council remains very limited, both ontologically and functionally²⁰¹. In fact, the Council is the meeting point of the universal episcopate and, by divine right, the place par excellence for the exercise of the full and supreme *potestas* of the College of Bishops. The Synod of Bishops, on the other, is a relatively small gathering of bishops, some of whom are chosen by the Supreme Pontiff himself and others of whom, elected by the episcopal conferences, must systematically have their election ratified by the Pope²⁰².

Furthermore, it is questionable whether it is correct to identify the granting of deliberative power to the Synod of Bishops with a mere authorization, as Fr Bertrams does. It is true *Urdo Synodi Episcoporum*, when it establishes the necessary rules for the voting procedure, specifies that *it is a matter either of giving advice to the Supreme Pontiff or of taking a decision, in cases where the Pope has given his permission*²⁰³. Speaking of *permission*, one might think that the act by which the Pope confers deliberative power is merely the removal of an obstacle that prevents the exercise of a *potestas* already belonging in a natural way to the Synod²⁰⁴, so that it becomes a *potestas ad actum expedita* (ready to be acted upon). In

201 We shall have occasion to return later to the points of similarity and also of dissimilarity between the Ecumenical Council and the Synod of Bishops, in the field of participation in the government of the universal Church. Let it suffice for the moment to quote Pope Paul VI addressing the assembly of the 1967 Synod of Bishops at its opening session. Thus, even though the Synod of Bishops cannot consider itself an Ecumenical Council, of which it has **neither the composition, nor the authority, nor the proper objectives**, it reproduces in some way its image; it reflects its spirit and method and, if it pleases God, obtains from it its proper charisms of wisdom and charity - (PAUL VI, *Allocation for the first meeting of the Synod of Bishops*, September 30 1967 in *Catholic Documentation* 1503 [1967], col. 1737).

202 The *Urdo Synodi Episcoporum* provides in article 6, § 3: "Episcoporum et Religiosorum, qui electi sunt, nomina publici juris ne fiant, donec ipsorum electionem Summus Pontifex ratam habuerit" (ORDO SYNODI EPISCOPORUM CELEBRANDÆ RECOGNITUS ET AUCTUS [1969], in AAS 61 [1969], p. 529). Likewise, canonical legislation provides for this ratification of appointments: "cujus (Romani Pontificis) quidem est sodalium, qui ad normam juris peculiaris eligendi sunt, electionem ratam habere aliosque sodales designare et nominare" (*CIC* [1917], can. 344, 2°).

203 ORDO SYNODI EPISCOPORUM CELEBRANDÆ RECOGNITUS ET AUCTUS (1969), in AAS 61 (1969), article 26 § 2, p. 535.

204 This is also the view of R. Laurentin when he says that the adoption of the term *licentia* "suggests not the communication of a power...but the freedom to exercise a power of one's own" (R. LAURENTIN, *Post-concilio e Sinodo Episcopale*, in *Quad. di Ricerca*, 8 Sotto il Monte, 1967, p. 148).

fact, the synodal procedure shows that the Pope is still called upon later to intervene so that the decisions of the Synod can be validated. This is particularly the case when *he deliberates on the votes cast*²⁰⁵ as stated in *VOrdo Synodi Episcoporum* or according to the Code of Canon Law, when *it is his task to ratify the decisions of the Synod*. Likewise, the Pope must intervene positively before proceeding to the vote, as is foreseen in *VOrdo Synodi Episcoporum*²⁰⁶. All this seems to show that the deliberative power is not an ordinary power belonging to the Synod of Bishops, which would only require permission, as Father Bertrams would have it, in order to become an act²⁰⁷.

These considerations do not allow us to share Fr. Bertrams' thought on this point, which he summarizes as follows:

Let us conclude, therefore, by affirming that the Synod of Bishops is subject to an ordinary power, proper to it, whether it exercises this power in a consultative manner, or, *suppositis supponendis*, exercises it in a deliberative manner*²⁰⁸.

III - 1. 2. Authors sharing Father Bertrams' opinion

Several authors, although not very numerous, follow the opinion of Fr. Bertrams and support in their turn the ordinary character of the deliberative power of the Synod of Bishops

In the first place, let us mention Á. Antón, for whom the sacramental ontological foundation of the episcopal *potestas* justifies the ordinary participation of the Synod of Bishops in union with the Supreme Pontiff in the deliberative power over the universal Church²⁰⁹. Unfortunately the author does not explain how the Synod, in an ordinary way, can be an adequate representation of the Episcopal Body. Indeed, it could easily be objected in this case that while some bishops participate in the Synod by virtue of a delegation from the episcopal conference or from the Pope himself, many others who would have interesting things to say on the subject and beneficial to all, with opinions perhaps nuanced from those of the

205 ORDO SYNODI EPISCOPORUM CELEBRANDÆ RECOGNITUS ET AUCTUS (1969), in AAS 61 (1969), Article 1, p. 526: "circa ejusdem vota deliberare".

206 *Id.* art. 24: "si Summus Pontifex id constituent".

207 It is clear that the resolution of the question on the theological level involves the problem of the representativeness of the College of Bishops in the Synod of Bishops. But even before we address this issue, which we will reserve for the next chapter, we see that the analysis of the official founding texts of the Synod of Bishops speaks of the possibility of a deliberative power in cases where the Pope deems it expedient, but does not envisage this deliberative function as the result of an ordinary power, on the contrary.

208 W. BERTRAMS, *op. cit.* p. 128.

209 Cf. Á. ANTON, *La Collegialità nel Sinodo dei Vescovi* in J. TOMKO, *il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985.

official delegates, do not in fact participate

According to Á. Antón, therefore, while admitting that the Second Vatican Council did not pronounce on the question which is still under discussion among theologians and canonists, the Council did establish principles in the light of which it cannot be maintained, as some do, that the possible deliberative power of the Synod derives from the supreme power of the Roman Pontiff²¹⁰.

Let us also quote C. Lefebvre, who, taking up the arguments of W. - Bertrams, maintains that :

<The Synod of Bishops constitutes a collegial juridical person of constitutional and canon law, enjoying ordinary power proper over the whole Church (...). With ordinary and proper power, since like the Ecumenical Council, from whom such power cannot be denied, it is adjunct to the Pope for the government of the Church, when only occasionally. As for the necessity of a special mandate to deliberate, this cannot be the cause of any difficulty, any more than it is for the ordinary power of the vicar general or the local superior of a clerical religion exempt^{*211}.

In agreement with C. Lefebvre, we must also mention the canonist F. Romita:

"The *potestas consultiva* is ordinary and proper, but this is also true of the *potestas deliberativa*, when it is granted by the Pope. Indeed, the extraordinary mode in which this *potestas deliberativa* is exercised does not change the ordinary nature of this *potestas*

This is also the position of F. Nigro:

"Such a power (the consultative power), derived from the collegial power of the episcopate and granted in a stable manner to the synodal assembly, is ordinary and proper; this is also true of the deliberative power, with the difference only that in this case the eventual decisions taken by the assembly need the confirmation and ratification of the Pope (n. U, art. 1)>²¹².

Let us conclude with the opinion of A. Fernández, who also attributes to the common sacramental origin of the episcopate the deliberative nature of the Synod of Bishops, holder of an ordinary power which will be put into action whenever the Pope requires it:

"The intercommunion of the Body of Bishops is made concrete in

210 "Riteniamo dunque che in un possibile Sinodo *deliberante* i vescovi eserciterebbero (...) una potestà radicata nella realtà ontologico-sacramentale della collegialità episcopale e non appunto per delega del Papa (...) benché si supponga sempre il suo consenso, che si dà in diverse forme, per attuare un potere ricevuto nel sacramento" (*Ibid.*, pp. 103-104).

211 C. LEFEBVRE, *Chronicle of the Acts of the Holy See, the Synod of Bishops*, in *Canonical Year* 11 (1967), pp. 127-128.

212 F. NIGRO, *Artide "Sinodi dei Vescovi"*, in *Dizionario del Concilio Vaticano II*, a cura di S. Garofalo, Unione Editoriale, Roma, 1969, col. 1852.

the synodal assembly where the episcopal communion is concentrated in a limited number of bishops who represent it (...). In this case, the deliberative capacity within the Synod comes from the sacramental requirements of the College of Bishops and not by papal delegation. The Pope does nothing more than confer the faculty to exercise a sacramental power. We shall speak only of papal delegation in the case of religious who participate in the Synod, always safeguarding the principle according to which the *potestas* of the College cannot be exercised without the consent of the Supreme Pontiff*²¹³ .

In all of the above examples, the intervention of the Pope in the conferring of deliberative power on the Synod of Bishops would only be an external element, which would condition the exercise of this *potestas deliberativa*, but not its existence, which would belong by nature to the Synod. This way of looking at things, which models the power of the Synod of Bishops on that of the College of Bishops as a whole, does not entirely satisfy us, since the College of Bishops is the subject of the *potestas suprema*, cannot be assimilated in a habitual and systematic way to the Synod of Bishops. We have not yet considered the subject of the representation of the College of Bishops by the Synod, which we reserve to do in the following chapter. Even supposing that the bishops of the Synod represent their fellow bishops who elected them, it seems difficult to admit that their opinions systematically reflect those of the whole Episcopal Body and that their authority is necessarily identified with that of the whole College of Bishops. If this were the case, the Synod of Bishops would be nothing more than a miniature council with the same prerogatives as the Ecumenical Council²¹⁴ .

The Synod of Bishops, an institution capable of exercising in an exceptional way the *potestas deliberativa*, by virtue of a delegation from the Supreme Pontiff

213 A. FERNANDEZ, *Nuevas estructuras de la Iglesia*, Ediciones Aldecoa, Burgos, 1980, pp. 290-291. Cf. also Id, *El Sinodo de los obispos y la colegialidad episcopal in Scripta theologica* 1 (1969), pp. 433-434.

214 We refer the reader to the address of Paul VI at the opening of the Synod of Bishops on 30 September 1967, quoted above in paragraph IH - L. I. Let us also quote Pope John Paul II's address to the Cardinals and the Roman Curia on 20 December 1990: "Certainly, the authority and objective form of the Synod differ substantially from those of the Council in its composition, its representativeness, its powers, the quality and extent of its magisterium and therefore in its effectiveness in execution" (JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 [1990], pp. 102-105).

Cf. also the address of Pope John Paul II to the Secretariat of the Synod of Bishops, 30 April 1983 (JOHN PAUL II, *Address to the General Council of the Synod*, 30 April 1983, in *La Documentation Catholique* 1854 [1983], pp. 611-612).

In view of the position of Father Bertrams and the above-mentioned authors, we find the position of those who maintain that the deliberative power of the Synod of Bishops has its origin in the delegation of the Supreme Pontiff more logical

For G. Alberigo, as we have already said with regard consultative power, *while the consultative function is inherent in the very nature of the Synod, its deliberative function depends solely on an attribution of relative power coming from the Pope (...)- When the Synod has a deliberative function, this does not come from God directly by means of the episcopal consecration of its members, but from the Pope*¹⁵ ®.

For A. Marranzini, *the deliberative power with which the Synod can be invested in certain cases comes solely and totally from the Pope. It is not the result of a delegation from the College of Bishops or of a participation in its authority*²¹⁵.

J. Neumann expresses himself more radically:

"If, however, such a power (legislative and judicial) is granted to the Synod, then this power is derived from the supreme *potestas* of the Pope, as is the case with the Roman dicasteries, and not from the *potestas* of the College of Bishops. Whenever the Synod of Bishops receives a specific power for particular cases, it will then possess only a delegated power, and it will even be in a position of inferiority with regard to the authority of the services of the Curia"²¹⁶.

215 A. MARRANZINI, *Principi teologici e il Sinodo straordinario*, in *Rassegna di Teologia* 10 (1969), p. 316. In another article: *Sinodo dei Vescovi e Usuo funzionamento* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p.117, the author expresses himself as follows: "The consultative power of which he is invested and also that of deliberation, which could be conferred on him, comes uniquely and totally from the Pope. Such power can be given to the Vescovitesin the Holy Spirit, because they do not have the capacity to receive for their consecration cannot be said that the episcopal consecration is a direct consequence, but only through the intervention of God, who is the visible principle of the unity of the Church.

Cf. also V. FERRARA, *Il Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 (1969), p. 515: "(I Padri Sinodali) pur essendo rappresentanti dell'intero Corpo Gerarchico della Chiesa cattolica ed insieme anche del popolo cristiano non in quanto derivanti da esso il loro mandato, but as guardians of their own needs and desires and procurators of their spiritual good and salvation, all the while exercising a normal consultative function in the Holy Land and only in particular cases deliberating behalf of the Pope (...)"

216 J. NEUMANN, *Die Bischofssynode* in *Theologische Quaderschrift Tübingen* 147 (1967), pp. 19-20. Aymans expresses himself in the same sense: "Zusammenfassend ist festzuhalten: Die Bischofssynode hat in ordentliche Weise das Recht, dem papst kollegialgefasste Voten zu den anstehenden Fragen zu erteilen. Die Entscheidungsgewalt der Synode ist nach geltenden Recht als delegiert Gewalt zu charakterisieren, weil und insofern der Beschlußfassungsgegenstand als solcher von Fall zu Fall zu bezeichnen ist" (W. AYMANS, *Das synodale Element in der Kirchenverfassung*, M. Hueber Verlag, München, 1970, p. 260)

Colella shares J. Neumann's opinion that, in the *event that such a power (i.e. legislative and judicial) is granted, it would derive from the supreme power of the Pope (...)*²¹⁷.

According to G. P. Milano, *the Synod, if it performs an act of deliberative value, does not exercise a power "proper" but rather "delegated" by the Pope, to whom it is incumbent to ratify the synodal decisions by conferring on them that validity of which they would otherwise be deprived*²¹⁸. For him, it must be concluded that *the deliberative "potestas" of the Synod has the characteristics of the delegated "potestas"*²¹⁸.

J. B. d'Onorio rightly points out that the Synod does not include the Pope in its midst, and always remains subordinate to him:

"Unlike the Council, the Synod of Bishops does not hold supreme power in communion with the Pope, for it is not ordinarily deliberative. The choice of the term Synod is very significant: it is the transposition on the universal level of the diocesan Synod in which the bishop is the only legislator, the members of the Synod being only his advisors... The authority of the members of the Synod thus comes from the Pope. The Synod is endowed with deliberative power on a specific point, it cannot diminish the power of the Pope, for, since it has this power from him and requires his ratification, it will always be subordinate to him and will not bind him. It will not be an ordinary power but a delegated power"²¹⁹.

Father R. Rouquette seems to us to summarize accurately the position—those who see the Synod of Bishops as receiving from the Pope the necessary delegation in the event that it is entrusted with deliberative power on certain questions: *(In this case) it would be a delegation of the supreme personal power of the Pope, not an exercise of the supreme power of the College of Bishops; but as above, this delegation would be made, because, by virtue of their sacramental membership in the College, the members of the Synod are ontologically fit to receive such a delegation*²¹⁹.

In fact, the quality of the representation of the College by the Synod of Bishops, which we will discuss in the next chapter, remains the important element that allows us to understand theologically why the deliberative function does not belong to the Synod itself, but is delegated to it by the Pope, in cases where the latter deems it useful to grant it.

We can conclude this chapter by affirming that the Synod of Bishops does not usually have the direct exercise of authority, which remains the

217 P. COLELLA, *Brevi osservazioni sul Sinodo dei Vescovi*, in *Diritto ecclesiastico* 80 (1969), p. 365.

218 G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giuffrè Editore, Milano 1985, p. 271.

219 J. B. D'ONORIO, *op. cit.* pp. 412-413.

exclusive prerogative of the Supreme Pontiff or the College of Bishops as such. The Synodal Fathers are usually charged with informing, advising and assisting the Pope in the areas assigned to them. Their role is above all one of advice. The experience of the past thirty-five years, during which nine ordinary and two extraordinary Synods²²⁰ of bishops from all over the world have been convoked in Rome at the request of the Supreme Pontiff, clearly shows this essentially consultative role of the Synod of Bishops.

However, it is not excluded that the Synod of Bishops may exercise the deliberative function, if it pleases the Supreme Pontiff to do so, as the founding texts, the *Motu proprio Apostolica sollicitudo*, the decree *Christus Doniinus, POrdo Synodi Episcoporum Celebrandæ* (1969), and the *Codex Iuris Canonici*, foresee in particular conditions respectful of the supreme primatial authority must be noted that this possibility of a deliberative vote of the synodal assembly has never materialized, so that the Synod of Bishops has always appeared as a consultative assembly, fulfilling three objectives: to inform the Pope, to reflect with him, and to present him with wishes or *vota* that can serve for the elaboration of apost-synodal pontifical document

Let us not think, however, that the absence of an ordinary deliberative power would relegate the Synod of Bishops to a subordinate level, making it only a secondary body without ecclesial value and with very limited influence on the government of the Church. It remains the privileged place where the *witness* of many bishops concerned for the good of the universal Church is manifested

220 The list of these Synods is given in the previous chapter, paragraph II-4.

Chapter III

Theological nature of the Synod of Bishops Insertion of the Synod in the report Primate-Episcopate

1 THE SYNOD OF BISHOPS AS A REPRESENTATION OF THE COLLEGE OF BISHOPS

Closely related to the origin and nature of the power exercised by the Synod of Bishops is the question of the extent to which the Synod or the participants in the Synod represent the universal episcopate. The representative character of the Synod of Bishops as an expression of the College of Bishops, whether it acts as a consultative or informative body, or whether it acts as a deliberative body, is a theme which still remains at the centre of discussions among theologians and canonists.

I - 1. The debate on *representativeness*

As we have seen in Chapter I, the Synod of Bishops appears as a representation of the Catholic episcopate as a whole. To be convinced of this, it suffices to refer to key texts such as the *Motu proprio Apostolica sollicitudo* or the conciliar decree *Christus Dominus*. In these two documents we find, in order to qualify the Synod of Bishops, the expressions *partes agens totius catholici Episcopatus*²²¹, or *utpote totius catholici Episcopatus partes agens* (representing the whole Catholic episcopate)²²²; both indicate a representation of the College of Bishops by the Synod. The question is what kind of representation these official texts are referring to. An investigation of the meaning of the term *representation* may help to clarify or circumscribe the debate²²³.

221 *Apostolica sollicitudo* I, in AAS 57 (1965), p. 776.

222 CD 5.

223 On the subject of the concept of *representatio*, as seen in ecclesiastical history, in the Bible or in theology, it may be interesting to consult specific studies such as: H. HOFMANN, *Repräsentation. Studien zur Wort- und Begriffsgeschichte von der Antike bis 19. Jahrhundert*,

It is evident that in Christian theology the search for the meaning of the term *representatio* has been going on for centuries, sometimes stimulated, sometimes hindered by the ever-increasing importance of the theme of representation in political science and public law. It turns out that in the ecclesial field, the term *representation* has been used more and more, understood in the sense of *expression*, of the act of *making present*, of *concentration*, rather than as the act of standing in the *place of another*, as typically understood in modern constitutionalism²²⁴.

With regard to the principle of representativeness, to which the *Motu proprio Apostolica sollicitudo* and the decree *Christus Dominus* refer, we find interesting the observations of E. Corecco expressed in an article dedicated especially to diocesan Councils, but whose general considerations also concern a certain way of conceiving the exercise of power in the Church. According to him, when it comes to this theme, often unconsciously and equivocally, there is a slide towards a *lógica mundana del potere* (a logic of power perceived according to worldly criteria)²²⁵, which is in opposition to the logic of service that should govern the life of the Church. Thus, in the Christian community, the concept of representativeness is fundamentally different from that envisaged in civil society or in political associations. Those who guide or govern the People of God, those who preside over the government of the universal Church or of dioceses, or of any portion of the People of God, even if they have been elected (which is sometimes the case for some), are not invested with power from below, that is to say, in virtue of a delegation from the people, but rather from above, that is to say, in virtue of the sacrament and of the mission conferred upon them. In this regard, let us recall the words of Paul VI at the opening of the Extraordinary Synod of 1969:

But on this point, let it remain clear that the Church government must not adopt the aspects and norms of the temporal regimes governed today by democratic institutions, sometimes excessive, or by totalitarian forms contrary to the dignity of the man who is subject to them. The Church government takes on an original form whose expressions are intended to reflect the wisdom and will of her divine Founder²²⁶.

The second element, well highlighted by E. Corecco, is that the profession of faith cannot be delegated to anyone, because salvation is an eminently personal fact, which cannot be assumed by anyone else²²⁷. In other words, at the level of

Berlin, 1974; P. E. PETERSON, *Representatio Christi. Die Amtsbegriff in der neuen-katholischen Theologie*, Göttingen, 1966; J. RATZINGER, *Rappresentanza - Sostituzione*, in *Dizionario teologico* III, (a cura di H. FRIES and G. RIVA), Queriniana-Brescia, 1968, pp. 42-53; B. TIERNEY, *Il concetto della rappresentazione nei concilii medievali dell'Occidente*, in *Concilium* WH (1983), pp. 48-58.

224 The article by E. Corecco, *Parlamento ecclesiale o diacono sinodale*, in *Communio* 1 (1972), pp. 32-44, can be read with profit. CORECCO, *Parlamento ecclesiale o diacono sinodale*, in *Communio* 1 (1972), pp. 32-44.

225 E. CORECCO, *op. cit.*, p. 41.

226 PAUL VI, *Address to the Synod of Bishops*, October 11, 1969, in *Catholic Documentation* 1550 (1969), p. 959.

227 Archbishop Correo rightly points out that at the Ecumenical Council no bishop can delegate his right to vote to a procurator. "This measure reflects the Church's persuasion that every

the universal Church, only the Pope or the College of Bishops *cum Petro and sub Petro* can speak in the name of the Church, that is, represent the Church in the strict sense. At the level of the particular Church or diocese, only the bishop represents the diocese or the portion of the universal Church entrusted to him, so that at the Ecumenical Council it is he and he alone and not one of the members of the Council of Consultors who represents the diocese. Diocesan councils without the presence of the bishop are unfit to represent the faithful of a diocese²²⁸. The concept of ecclesiastical representation makes the bishop the true holder²²⁹. This title of representation is based on the testimony of the bishop in relation to the faith of his diocese, a testimony which, in the last resort, is a binding element and therefore has juridical value, when it is translated into a deliberative vote for decisions to be taken within the College of Bishops

It is true that the Council has emphasized the representation that each bishop assures of his particular Church²³⁰, since the bishop is *the principle and foundation of unity in his Church*²³¹. Each Bishop represents his own Church, and all of them, together with the Pope, represent the universal Church in the bond of peace, love and unity. As A. Miralles rightly points out, each bishop represents his own Church. Miralles, each bishop represents in the College of Bishops the richness of the charisms of the Church for which he has pastoral responsibility²³². As M. Midali also says, referring to St. Clement of Rome, St. Ignatius of Antioch and St. Cyprian, *the bishop is not only the visible centre of ecclesiastical unity, but he is like the incarnation of the local Church (...). & "Because of consecration and hierarchical communion, the simple bishop becomes a member of the Episcopal Body and brings into this Body all the religious, spiritual, moral and supernatural riches of his community"*²³³.

conciliar decision, even if only disciplinary, always has a very close connection with the profession of faith" (*pp. cIL, p. 42, note no. 50*).

228 E. CORECCO, *op. cit.* p. 42.

229 "The vestryman) presents this faith only in the way that his own faith is lacking, and that which corresponds to his own. It does not represent her in the force of a mandate from her dioceses, but rather testifies to her most meaningful participation in the professional, priestly and regal office of Christ, mediator between God and men. The most correct translation of the concept of representation is, therefore, that of testimony in the Church" (E. CORECCO, *op. cit.*, p. 42).

230 *Qua de causa **singuli Episcopi suam Ecclesiam**, omnes autem simul cum Papa totam Ecclesiam repraesentant in vinculo pacis, amoris et unitatis" (LG 23a).

IL* Episcopi autem singuli visibile principium et fundamentum sunt unitatis in suis Ecclesiis particularibus" (LG 23a).

232 "Every bishop makes present in the Episcopal College the wealth of gifts and charisms that are rooted in the Church, to which the episcopal office is dedicated. It is a splendid quality of the particular dimension of his episcopacy (...).

All the gifts and charism from which the members of the particular Church are drawn, (...) in one way or another, are related to the visible ministry of the vestry, coadjutant the presbyters, to whom the daily pastoral care of the members is given. Therefore, it can be said that the bishop brings to the episcopal college the spiritual resources of his particular Church" (MIRALLES A., *La dimensione universale e particolare dell'episcopato*, in *I vescovi e il loro ministero* [a cura di P. Goyret], Libreria Editrice Vaticana, Rome, 2000, p. 56).

233 M. Mi BALI, *Commento al capitolo III della Lumen Gentium: La costituzione dogmatica sulla Chiesa*, "Collana Magistero conciliare" 1, Edizione Elle Di Ci, Torino-Leumann, 1965, p. 650. The author goes on to say: "In questo modo la molteplicità e varietà delle Chiese particolari con i

It should be noted that the Constitution *Lumen Gentium* adopted the term *ministerial for the priesthood*, but without excluding the category of *representation*. In LG 10, existence of the two priesthoods mentioned, and the difference between the common priesthood of the faithful and the ministerial or hierarchical priesthood in the conciliar discussions²³⁴ led the Commission in charge of the drafting of the text to explain what was meant by *sacerdotium ministeriale*. The official Reporter of the approved text gives an interesting clarification about this priesthood: *It is said to be representative, not because it is necessary to use this word, but in order to show the character of the function. The minister represents God before the faithful and represents the faithful before God*²³⁵. It is therefore manifest that priests, in virtue of the sacrament of Orders, exercise this double representation of Christ and of the Church. Therefore, even more so, the bishops who possess the fullness of the priesthood will represent Christ the Head and Shepherd²³⁶, but also the Church for which they are responsible.

1-2. The position of the Church's official magisterium

We think it opportune to recall the clarifying precision that the official Reporter of the Decree *Christus Dominus* to the Second Vatican Council, Archbishop Gargiter, was kind enough to express with regard to number 5, when it was a question of justifying the phrase *ut pote totius catholici Episcopatus partes agens* (as representing the whole Catholic episcopate). He stated that this statement could be admitted *only in the sense that the Central Council is a "sign" of the participation of the College of Bishops in the office of the universal Church, and not in the sense that some would have wished, namely, that the Council would be an < exercise of the office of the College of Bishops*²³⁷. It is natural, therefore, to interpret in the light of this clarification the expressions which are inspired by the conciliar incise²³⁸. It seems unjustified, therefore, to rely on the qualifier *totius*

propri tesori di esperienza cristiana, di vita di fede e carità, di dottrina e cultura, di tradizioni che manifestano la cattolicità del Popolo di Dio, through the individual Vescovites, living images of the individual Chiesa, is integrated into the vital fabric of episcopal unity, which becomes a sublime example of the universality of God's people" (*Ibid.*, pp. 650-651).

234 Archbishop Laurentius Jæger, Archbishop of Paderborn, remarked on the difference between the priesthood of the faithful and the ministerial priesthood: "Id quod *non commune est, invenitur in speciali consecratione et in ecclesiastica delegatione. Sacerdotes ministeriales specialiter vocati, instituti et consecrati sunt ad repræsentandam Ecclesiam catholicam apud Patrem et Iesum Christum apud Ecclesiam. Hoc repræsentativo munere membra sacerdotii universalis non funguntur*" (*Cone. Vat. II Syn.*, p. 1429).

235 *Cone. Vat. II Syn.* at 82.

236 Cf. JOHN PAUL II, Apostolic Exhortation *Pastores dabo vobis* n. 15, 25 March 1992, in *Catholic Document* 2050 (1992), p. 459.

237 AS II, vol. III, p. 131.

238 This is the opinion of J. Tomko (cf. J. TOMKO, *Il Sinodo dei Vescovi e Giovanni Paolo II*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p.25) which we consider to be correct, even if in some particular cases, in very specific circumstances, the Synod of Bishops could represent, in the strong sense of the word, the College of Bishops and act in its name

catholici Episcopatus partes agens, which the *Motu proprio* or the conciliar document attributes to the Synod of Bishops, in order to affirm that the Synod can exercise indiscriminately with full rights the proper functions of the College of Bishops.

Let us recall that Pope Paul VI, in his first address to the Synod of Bishops in 1967, after having emphasized that the institution of the Synod is useful for the confirmation and strengthening of the bonds of faith, charity and pastoral action between the Supreme Pontiff and the Episcopal Body, hoped that this new institution, in addition to his solicitude for the universal Church, would provide a service of help, advice and collaboration, with a view to a better fulfillment of his Petrine ministry. He illustrated the nature and limits of this collaboration and participation in the Church's government means of a fourfold type of representation of the universal Church:

- In the first place, he saw the bishops participating in the Synod as representatives of their respective Churches, as a principle and foundation of their unity²³⁹. Paul VI thus emphasized the representative function of the participants in relation to their local Churches.

- secondly, he spoke of the representation of the Bishops' Conferences, which thus have the opportunity to make their aspirations heard and to share their experiences²⁴⁰. In fact, the participants receive from the conferences their mandates and therefore the responsibility to make their *legitimately present*, expressing their views. It is both by virtue of their election and by virtue of special instructions received, that elected members can be delegates or representatives of their conferences.

- thirdly, Paul VI saw the Synod of Bishops as a representation of the entire Episcopal Body²⁴¹. This is where the difficulties arise.

The doctrine on the episcopate developed at Vatican II sees the bishop as a representative, a personification of his Church; nor is it difficult to appreciate how and why the bishop participating in the Synod of Bishops represents, at least canonically his episcopal conference. But it is not so simple to explain how the

239 You represent your respective Churches, for which you are the principle and foundation of unity, as We are by the will of God, for this Church of Rome and for the universal Church, as well as for the entire episcopate and for the multitude of the faithful" (PAUL VI, *Allocution for the First Meeting of the Synod of Bishops*, 30 September 1967, in *Catholic Documentation* 1503 [1967], col. 1737).

240 ♦ And then you are mostly representatives of the Bishops' Conferences, which have elected you as members of this Synod. you bring here the canonical presence of the Conferences themselves, the echo of their wishes and the voice of their experience. Your representation has the dignity and authority of those ecclesiastical bodies, the Episcopal Conferences, which the Ecumenical Council wished to promote and to which it marked their function in a manner equally favourable, on the one hand, to a relative and effective juridical decentralization and to a certain pluralism of ecclesiastical expression corresponding to the tradition and character of the local Church, and, on the other hand, to the organic reinforcement of the unitary cohesion proper to the Catholic Church" (*Ibid.*, cols. 1737-1738).

241 Finally, you represent the entire hierarchical body of the Catholic Church, which in turn represents Christ Our Lord, the invisible, unique and sovereign Head of the holy Church, from whom we receive the gift of all graces and who is origin of all our powers" (*Ibid.*, col. 1738).

members of the Synod represent the College of Bishops. The College as a constituted body does not elect its representatives to the Synod, who are rather representatives of their local Churches or conferences

- Finally, the Pope saw in the Synod of Bishops a representation of all the faithful²⁴². In conclusion, he stated that he did not wish to discuss the nature and structure of the Synod of Bishops beyond what was contained in the *Motu proprio Apostolica sollicitudo*, leaving it to *specialists and publicists* develop an analysis of the juridical aspects of this institution²⁴³.

It is right to recall that the new Code of Canon Law did not consider it opportune to transcribe the incise *totius catholici Episcopatus partes agens* in the description of the Synod of Bishops given in canon 342. As we have already said in Chapter I²⁴⁴, the Pontifical Commission for the Revision of the 1983 Code of Canon Law officially responded to a request from the Secretariat of the Synod, clarifying and relativizing the theological meaning of the incise. This authorized commentary specifies *that it cannot be said in a juridical sense that bishops also represent or are delegated by other churches. This is why this expression has not been received in the Code of Canon Law, which is not a theological but a juridical document*²⁴⁵. This official response invited to see in the incise *totius catholici Episcopatus partes agens* a rheologically valid expression, since *the bishops, gathered at the Synod, must exercise their solicitude towards the Churches they do not govern directly, i.e., they must also attend to the needs of the other Churches*²⁴⁶.

1-3. The different points of view among theologians

absence of a definitive interpretation the representative character of the Synod on the part of the Pope or the Church, or a clear determination from the history of this institution, we are reduced to examining the thinking of various authors on the representative function of the Synod of Bishops

According to J. Tomko, the question is eminently theological and concerns the source of the deliberative power of the Synod²⁴⁷, as we have already indicated

242 And in a certain sense you know that you represent the Christian people, not because you have a mandate from them, but because as representatives of Christ to this people you know their needs and desires and work for their spiritual good and Christian salvation" (*Ibid.*, col. 1737- 1738).

243 *Ibid.*, col. 1738.

244 See Chapter I, § IV - 2.

245 PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Response of the Commission for the Revision of the Code of Canon Law*, 20 September 1983, in J. TOMKO, *H Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Rome, 1985, p. 180.

246 *roid*, p. 180. See also CD 6.

247 "The question is (...): se cioè tale potere provenga al Sinodo dei Vescovi dalla concessione del Romano Pontefice, oppure dalla natura collegiale del Sinodo dei Vescovi, *che rappresentando tutto l'Episcopato cattolico, insieme dimostra che tutti i Vescovi sono partecipi, in gerarchica comunione, della sollecitudine della Chiesa universale (Christus Dominus 5)*; in ultima analisi se il potere deliberativo provenga dallo stesso sacramento dell'Ordinazione episcopale dei partecipanti al Sinodo" (J. TOMKO, *op. cit.*, p. 24).

at the end of the previous chapter²⁴⁸. In fact, the whole importance of this debate lies in the meaning to be attributed to the word *representation*²⁴⁹. Thus, according to the answer given, one meets on the one hand the partisans of a representation at the Synod of the whole Catholic episcopate as a College in the *full and proper sense*, and on the other hand the partisans of a representation of the College of Bishops, but only in a *moral or even theological sense*³ ®.

Thus, we have divided the opinions of theologians and canonists into three broad categories: (1) those who hold that the Synod of Bishops represents the College of Bishops in a real or ontological way; (2) those who hold that the Synod of Bishops in its present form does not really represent the universal episcopate, but who envisage as possible the existence of a representative body of the Episcopal Body capable of acting on its behalf; (3) those who deny to the Synod any character of representation of the College except in a moral sense

1-3. 1, First opinion

For some it is possible to see the Synod of Bishops as representing the College of Bishops in a real or ontological way.

Thus Father Bertrams, who has a more juridical conception of representation, states:

"The Body of Bishops is represented by the delegates of the Episcopal Conferences. this way, the multitude of particular Churches, with the plurality of charisms in their respective communities () is represented. Therefore the Synod of Bishops, which represents the whole Church, promotes the good of the universal Church by having a real and effective influence on the government of the universal Church entrusted to the office of St. Peter. It should be noted, however, that this representation rests on the sacramental communion which the bishops form among themselves and with the Supreme Pastor (...). is why the Lord himself, through these representatives who are his own - made such in virtue of the sacrament - governs his Church²⁵⁰.

248 See Chapter II, § III - 2.

249 "All the weight of the request is concentrated on the meaning of this *representation*. Do the Vescovites who participate with the Pope in the Sinodo dei Vescovi *represent* the whole Catholic Episcopate, or rather the Collegio dei Vescovi *in its proper sense* or only *in the moral sense*? Se si trattasse di rappresentanza in senso proprio, il Sinodo dei Vescovi potrebbe agire a nome del Collegio episcopale ed avere il potere deliberativo per sua natura. Se invece questa rappresentanza è soltanto morale in quanto, attraverso i Vescovi scelti e partecipanti al Sinodo, viene rispecchiata la composizione dell'intero episcopato anche nella sua distribuzione geografica, questo gruppo di Vescovi al Sinodo non può avere tale potere deliberativo di per sé ma per delega del Papa* (J.TOMKO, *op. cit.*)

250 W. BERTRAMS, *De Synodi episcoporum potestate cooperandi in exercitio potestatis primatialis*, in *Periodica* 57 (1968), pp. 541-542. The author also repeats in his conclusion: "hac ratione corpus Episcoporum potestatem a Domino sibi concreditam bonum totius Ecclesiae, per Synodum exercet, quatenus Synodus partem habet in pascenda Ecclesia per Supremum ejus Pastorem" (*Ibid.*, p 549).

To the opinion of Fr. Bertrams can be linked that of A. Fernández, who rightly points out that in Episcopal Conferences or in particular Synods, the Bishops are not representatives of the whole College of Bishops and that therefore their possible decisions are valid only in the sphere of jurisdiction assigned to such bodies. He believes, however, that there can be *areal representation* of the College of Bishops in the Synod, which is necessary for a strict act of collegiality²⁵¹.

The representation of the entire episcopate is a fact that is not in doubt for the first secretary of the Synod of Bishops, Archbishop L. Rubin, who affirms that *the new ecclesiastical body is called Synodus Episcoporum, precisely because it represents and expresses the world Catholic episcopate (...). The bishops participating in the Synod, by virtue of this episcopal representation which they carry, effectively influence the exercise of supreme power in the whole Church*²⁵².

In addition to the authors mentioned above, who consider the Synod of Bishops to be an organ capable of representing the College of Bishops, we must add A. Antón²⁵³, who examines the circumstances in which the Synod of Bishops is capable of taking strictly collegial action. According to him:

"The representation of the College of Bishops in the Synod of Bishops is small, but legitimate. The bishops of the various episcopal conferences... elect their own representatives, in proportion to the number of bishops in each conference"²⁵⁴.

Á. Antón then points out that even in the Ecumenical Councils the participation of all the members of the College has not always been the rule:

"The morally unanimous presence of the bishops at a Council has always been interpreted by theologians in a very broad sense. Moreover, the history

251 Cf. A. FERNÁNDEZ, *Nuevas estructuras de la Iglesia*, Ediciones Aldecoa, Burgos, 1980, pp. 282-290. Thus, according to him, "the members (of the Synod) can enjoy a true representation, not only of the universal episcopate, considered numerically, but also of its opinions, doctrine and common practices, on the themes proposed for discussion by the Synod" (*Ibid.*, pp. 286-287). The same author wrote in a previous article: "However, the fact that the regulations provide that on certain occasions the Synod may have deliberative power is sufficient to affirm that in such circumstances the Synod will perform a strict act of collegiality, and its decisions, ratified by the Pope, will have universal value. The ontological intercommunion of the *corpus episcoporum* is concretized in the synodal assembly, where the episcopal communion is synthesized in a limited number of bishops who represent it" (A. FERNÁNDEZ, *El Sínodo de los obispos y la colegialidad episcopal in Scripta theologica* 1 [1969], p. 433).

252 L. RUBIN, *Press Conference of 18 April 1967*, quoted by F. ROMITA, *Il Synodus Episcoporum*, in *Monitor Ecclesiasticus* 43 (1968), p. 404.

At the Synod of Bishops of 1969, Cardinal Seper expressed himself in the same sense, in the *Relatio doctrinalis* of October 11, 1969: "Representado enim episcopalis Collegii in Episcoporum Synodo -presertim in Coetum generalem congregata - vera esse videtur. Revera de hoc Episcoporum Coetu Episcopis totius orbis catholici coacto agens, memoratum *Motu proprio* affirmât eundem partes agere totius Catholici Episcopatus" (F. SEPER, *Relazione dottrinale al Sínodo dei Vescovi*, 11 ottobre 1969, in G. CAPRIJE, *Il Sínodo dei Vescovi, Prima assemblea straordinaria* [11-28 ottobre 1969], Edizioni "la Civiltà Cattolica", Roma 1970, p. 465).

253 "That the Synod of Bishops is a representation of the Body of Bishops is the central point of Paul VI's address at the inauguration of the work of the 1967 Synod" (Á. ANTÓN, *op. cit.*, p. 98).

254 A. ANTÓN, *Episcoporum Synodus: Partes agens totius catholici Episcopatus*, in *Periódica de re Morale, Canónica, Litúrgica* 75 (1968), p. 518.

of the Church itself sufficiently demonstrates that some Ecumenical Councils have been celebrated with very limited participation of bishops, or even without any representation of bishops from certain major regions of the Church*²⁵⁵.

the circumstances of each Synod are often random and changing, it is necessary to see if we can speak of a consensus of the College of Bishops in a simplesynodal decision:

It should not be forgotten, moreover, that if it is natural for any College and therefore also for the College of Bishops, to be able to issue strictly collegial acts only in virtue of a consensus common to the whole College, it does not follow that it is necessary to bring the whole College together to take a collegial decision. Given the great ease of communication, the meeting of all the members of the College in the same place has lost its importance today. According to Neumann: *The College, in certain cases, can delegate a power of decision to certain of its members, whom it has previously chosen*³¹. This possibility can find its application in the Synod of Bishops. In this case, one could speak of a true and legitimate representation of the College of Bishops, and its acts, in specific circumstances, would be in the strict sense acts of the whole College*²⁵⁶. However, Á. Antón does not seem to realize that the difficulty in speaking of a genuine representation is not primarily the lack of a physical presence of most of the bishops, but rather the fact that only a few have the right to participate. One may wonder if Á. Antón would recognize the ecumenical character of a Council to which only ten percent of the bishops were invited.

²⁵⁵ *Ibid*, p. 519.

²⁵⁶ Á. ANTÓN, *op. cit.* p. 518. Father Antón repeats his argument in his article: *La Collegialità nel Sinodo dei Vescovi* in J. TOMKO, *il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 100.

I - 3.2 *Second opinion. Point of view of G, Alberigo*

Giuseppe Alberigo does not consider the Synod of Bishops as it exists at present as really representing the College of Bishops²⁵⁷, but he does not forbid the existence of an organism that could take action in the name of the whole College of Bishops²⁵⁸.

He tries to give an answer to the question of whether the College of Bishops can endow itself with organs of concentrated representation: thus, for him, the obstacles are not insurmountable and the thing is feasible *on condition 1) that such bodies respect their dependence on the full College, avoiding usurping its prerogatives; 2) that these bodies realize the same relationship of the full College with the Bishop of Rome; 3) that it is possible for a particular Church to have recourse to the full College, in the event that this Church feels fundamentally aggrieved by the decisions of the collegial representative bodies*²⁵⁹.

G. Alberigo aptly points out that a necessary condition for the celebration of an Ecumenical Council is the possibility of participation by every member of the College. The Councils of the Middle Ages, in which such participation was not possible, do not seem to be without defects in this respect, and some have expressed doubts about their ecumenical character. *The solemn form of the exercise of collegiality implies a participation (at least possible) of all the members of the College of Bishops*²⁶⁰.

However G. Alberigo is careful not to jump to the conclusion that any representation of a certain number of bishops by others is impossible²⁶¹. He argues only that election in episcopal conferences is not the basis for such representation: *The basis of the episcopate is not election, even if sometimes an election is held to choose a new bishop. Its essential foundation is consecration*²⁶². This means that

257 Cf. G. ALBERIGO, *Piramide di potere e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*, Editrice A. Mondadori, Verona, 1969, p. 154. The author criticizes the present Synod of Bishops, with members who are not episcopal, for not being representative of the world episcopate, insofar as an organism which really represents the College of Bishops "is made up of bishops and cannot find any other basis for its own power than in the same episcopal consecration and in the mandate given by the medieval bishop, although it is necessary that the power of an organism of this kind should be essentially connected with the meeting with the bishop of Rome".

258 "Is it possible that a large number of vassals act in the name of the College considered in its entirety? Una risposta affermativa apre, come si vedrà, ulteriori problemi" (G. ALBERIGO, *Istituzioni per la comunione tra l'episcopato universale e il vescovo di Roma in Cristianesimo nella storia* 2 [1981], p. 252).

4L G. AUJERIGO, *op. cit.*, p. 254.

260 *Ibid.*, p. 253.

261 In a previous article he had already stated: "Once a representation of the universal episcopate is accepted as possible, it must be made clear that the remote or proximate source of such a representation can only reside in episcopal consecration, just as the condition of its existence is a delegation by the whole College. This point of view shows very clearly that the Synod of Bishops does not fall into this category, since it can have a deliberative function only in cases where this function is granted to it by the Pope" (G. ALBERIGO, *Piramide di potere e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*, Editrice A Mondadori, Verona, 1969, pp. 153-154).

262 *Ibid.*, p. 153.

the power exercised by the representative body would not need to be conferred by the Pope, as is the case with the Synod of Bishops²⁶³.

Giuseppe Alberigo summarizes his position regarding the functioning of a truly representative assembly of the College of Bishops as follows: *The authority of a representative of the College could have no other source than the episcopal consecration of its members, consolidated by consensus and reception on the part of the episcopate and the Churches*²⁶⁴.

Thus the possibility of a representation of the Episcopal Body has its *raison d'être* in the sacramental bonds which unite each bishop to the College as a whole. The authenticity of such a representation is only verified later, when the entire Episcopal Body confirms the decisions of its representatives, or when the Church receives the decisions made and considers them valid and binding, so that in the case of the Synod of Bishops, one can hardly speak of a true representation, as such, that allows it to act in the name of the entire College.

I ~ 3. 3. *Third opinion*

For other authors, it is never possible to envisage the Synod of Bishops as an authentically representative body of the College of Bishops

Those who hold this view see in the Synod of Bishops at most a moral representation of the College of Bishops, and put forward a set of reasons which should be enumerated and analyzed, and thus judge their validity²⁶⁵.

For G. P. Milano, it is clear that the Synod of Bishops is not a representation of the College of Bishops²⁶⁶. The response of the Pontifical Commission for the Revision of the Code of Canon of 1983 is a rather decisive proof²⁶⁷.

The representation in question in the Synod of Bishops can only be representation in the broad sense. Mr. Zurowski aptly points out that from a strictly juridical point of view, not all bishops in the world are given the opportunity to

263 For example, norm II of the *Mont Proprio* ("Poterit etiam potestate deliberativa gaudere, ubi hæc ei collata fuerit a Romano Pontifice, cuius erit in hoc casu decisiones Synodi ratas habere") seems to indicate clearly that the Pope is conferring a power, which is not inherent in the synodal assembly, or which belong to it proper

264 G. ALBERIGO, *Istituzioni per la comunione tra Ceperiscopato universale e il vescovo di Roma*, in *Cristianesimo nelle storia* 2 (1981), p. 252.

265 It is worthwhile to refer to the analyses of some authors who have discussed the value of such representativeness of the Synod of Bishops. We may cite: J. TOMKO, *op. cit.*, pp. 25-27; M. ZUROWSKI, *Synodus Episcoporum in quantum -parus agens totius catholici Episcopatus*", in *Periodica* 62/3 (1973), pp. 375- 391.

266 "The members of the Synod cannot be part of the charism of the Episcopal College, since they cannot be constituted as representatives of it. This is because it is not possible for the witness of the faith of the whole Church, which has been ontologically established in the Ecumenical Council, to be given in concrete and representative bodies" (G. P. MILANO, *Forms and Contents of Consultative Activity in the Church, with Particular Reference to the Episcopal College* in *Ephemerides Iuris Canonici* 46/2-3 [1990], p. 306).

267 Cf. what we have already stated in paragraph IV - 2 of Chapter I, when we transcribed the reply of this commission concerning the meaning to be given to the expression *totius catholici Episcopatus partes agens*.

choose their representatives to the Synod²⁶⁸. A significant number of them, although part of the College of Bishops, do not have access to the election of representatives. In fact, titular bishops, auxiliary bishops and bishops emeritus, even if *in some cases* the statutes of their episcopal conference allow them to participate in the conference of their country²⁶⁹, do not automatically have the right to vote, which does not allow them to elect representatives to the Synod and to communicate their *votum*²⁷⁰. Thus, already at the level of the mode of election, the character of a juridical representation of the Synod is not assured, even if it is now possible for emeritus bishops to be elected as representatives of the Episcopal Conference to the Synod of Bishops, as the Pontifical Council for the Interpretation of Legislative Texts ruled in 1991²⁷¹.

The bishops elected by the episcopal conferences, who are charged with representing their colleagues, cannot identify themselves with those they represent, either theologically or ontologically, but moreover, the special gift each has received from the Holy Spirit cannot be delegated to anyone.

Thus F. Romita rightly explains:

"All the successors of the Apostles take part in an Ecumenical Council to whom Christ has granted supreme power over the Church *cum et sub Petri Successore*: whereas only representatives of the episcopate are present at the Synod of Bishops. The representatives, however, are not the same as the persons they represent, not only from the theological and ontological point of view (which is obvious), but also from the charismatic and moral point of view. For the charisms which the Holy Spirit distributes to each of the successors of the Apostles gathered at the Council, either formally or equivalently, according to the decree *Christus Dominus* no. 4, are not transmitted, in the case of a meeting of the Synod, to those bishops who represent only the majority of the bishops. The discussions and deliberations that occur in the exercise of these charisms, when the bishops are gathered in Council, cannot be compared with the discussions and decisions made by only a certain number of bishops^{*272}.

268 See M. ZUROWSKI, *op. cit.*, p. 378.

269 See CD 38 §2.

270 "Repraesentationem quod attinet animadvertendum est illam - quæ in Synodo Episcoporum habetur - in sensu lato tantum intelligi posse. Nam stricte loquendo sunt Episcopi designati per electionem in sessionibus specialibus Conferentiarum episcopaliū quæ tamen non semper omnes Episcopos suæ nationis tamquam membra habent; id enim dependet a statutis prouaquaquæ Conferentia approbatis. Præterea adsunt membra Synodi quæ ex nominatione Romani Pontificis munus suum exercent" (M. ZUROWSKI, *op. cit.*, p. 378).

271 To the following question: "Utrum Episcopi emeriti, de quibus in can. 402 § 1, ab episcoporum Conferentia elegeri possunt, juxta can. 346 § 1 præscriptum uti Synodi Episcoporum sodales", the response of the commission of 2 July 1991 is: yes (PONTIFICUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS, *Res-ponsum authenticum* circa can. 346 § 1, in AAS 83 [1991], p. 1093).

272 F. ROMITA, *Il Synodus Episcoporum*, in *Monitor Ecclesiasticus* 43 (1968), p.417.

We may note the words of J. Johnson, who agrees: "One can give a proxy, the power to act in one's name. One can explain to that delegate one's opinions and the reasons for them. But one cannot impart to even the most carefully selected ambassador one's personal make-up, let alone the unique gifts one has received from the Spirit of God. When the entire College of Bishops

Likewise, according to G. Colombo and A. Marranzini, the bishops cannot hand over to others their magisterial power or their power of jurisdiction, which does not admit any possibility of delegation²⁷³.

In his presentation to the *Consilium of the General Secretariat of the Synod of Bishops*, on the occasion of the study session on the functioning of that body from 26 to 30 April 1983, Joseph Tomko takes a similar position, stressing that the bishops cannot delegate to representatives the power they possess as members of the College of Bishops, nor even their charism of teaching²⁷⁴. Cardinal Ratzinger is also in tune with this view²⁷⁵. Let us recall that the *Explanations of 1974*²⁷⁶ (in number VI) had clarified the question concerning the voting of the delegates of the episcopal conferences. Independently of the instructions or opinions received from his or her episcopal conference, the delegate who has had time to mature his or her opinion after the discussions in the aula or in the *circuli minores* (crossroads) freely expresses his or her personal opinion in the vote according to what his or her conscience dictates, with a view to the good of the universal Church²⁷⁷.

gathers in an Ecumenical Council, the gifts of the Spirit which each bishop enjoys can be brought to bear upon the deliberations. This cannot happen when only some of the bishops gather" (J. JOHNSON, *The Synod of Bishops: an exploration of its nature and function in Stadia Canonica* 20/2 [1986], p. 315).

273 "I poteri fondamentali d'origine divina del corpo episcopale: l'infallibilità del magistero e l'autorità di governo universale supremo, sono propri della comunità intera, e non sono delegabili: come non è delegabile l'infalibilità personale del Romano Pontefice o la pienezza della sua autorità suprema di Vicario di Cristo" (C. COLOMBO, *Il Collegio episcopale e il Primato del Romano Pontefice*, in *La Scuola Cattolica* 93/1 [1965], p. 55, note 26).

< I singoli Vescovi non possono rimettere ad altri la loro potestà (potestas) e quindi la loro funzione (munus) di magistero, culto, giurisdizione; la propria realtà di principio di unità della propria Chiesa e della propria corresponsabilità per la Chiesa universale" (A. MARRANZINI, *H Sinodo organo della "sollecitudine pastorale dei Vescovi" per il popolo di Dio in la Rivista del Clero Italiano* 64 [1983], p. 854).

274 "Eleggendo i loro rappresentanti al Sinodo, i Vescovi non intendono - almeno ciò non risulta - delegare i poteri che essi hanno in quanto *Collegio*, anzi si può dubitare che essi lo possano fare. On the other hand, the same Vescovi delegates, simply because they are obliged to inform the General Assembly of the position taken by the Episcopal Conference they represent, can hope to express their personal views and vote according to their own knowledge and beliefs - does not seem possible for a bishop to delegate his own magisterial role" (J. TOMKO, *op. cit.*, pp. 26-27).

275 Secondo la tradizione cattolica, orientale e occidentale, non si può concepire che i Vescovi possano concedere ad alcuni Vescovi da loro scelti questa loro facoltà partecipativa al governo della Chiesa universale. The ecclesiological nature of the Collegio dei Vescovi does not lie in the fact that they constitute the central government of the Church for delegates, but in the fact that the Church remains a living body that is built up with living cells. They are part of the governance of the universal Church, but they look after their own part of the Church, that is to say, a particular Church, in which all the Church in some way is present and whose life constitutes, in its own way, the whole organic structure of the Church" (J. RATZINGER, *Scopi e metodi del Sinodo dei Vescovi*, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, pp. 48-49).

276 The *Explanations* we are speaking of are details which were officially added to the Synod's regulations in order to clarify certain points, and which now have the force of law in the course of Synods (cf. Chapter I, § III - 2. 4).

277 In the *Explanations quodam circa "Ordinem Synodorum Episcoporum celebranda recognitum et auctum"*, in number VI, we read: "In article 38.1 (of the *Rules of the Synod*) it has

A large minority of bishops may not be represented at the Synod the delegates of the Bishops' Conferences participating in the Synod represent the majority tendency of the Conference; however, it may be that the *minority parish* is the wiser²⁷⁸.

If theologically the prelates who are members of the Synod must show pastoral solicitude for all the diocesan Churches, juridically they have no quality to represent them, because it is not the Churches who have delegated them to the Synod, but only their conferences of bishops, which are not ecclesiastical administrative structures. Thus, according to B. Kloppenburg's analysis of *Apostolica sollicitudo: in these circumstances the bishops who constitute the Synod cannot be considered true and legitimate representatives of the College of Bishops. They will be pure delegates of the episcopal conferences they represent to give information and advice to the Pope on the affairs of the whole Church*TM

It is difficult to argue that in some Ecumenical Councils, especially in the early centuries, the number of bishops present was relatively small. It would be appropriate to analyze the various historical aspects involved, such as the proportion of bishops present in relation to the episcopate as a whole, the physical impossibility for many bishops to participate, the ecumenical character of the conciliar assembly often recognized later, etc.

been established that each of the members expresses his opinion, according to the norm of article 23.2, by means of a written vote which must then be transmitted to the General Secretariat. Some asked whether the obligation is such that the delegate of the Bishops' Conference who has to express his or her vote is obliged to follow absolutely the feeling of the Bishops' Conference, or whether he or she can express another opinion, according to what was stated during the discussion. Already at the 1971 General Assembly, ..., it was explained that the obligation to follow the opinion of the Bishops' Conference, according to the *Rules of Synod*, was to be considered as relative. The delegate, in fact, was to present in the synodal debate the point of Bishops' Conference. If, however, in the course of the work of the Synod, after having listened to what was said during the debates in the plenary assemblies or in the *circuli minores*, his opinion evolves to the point of being different, let him then express his opinion, following the dictates of his conscience (...).

278 According to M. Zurowski, "Quaestio tamen proponi potest, utrum liceat non admittere aliquod membrorum Collegii - quamquam communionem hierarchicam cum Capite Collegii atque membris servat - ad exercitium illius iuris personalis participationis in disceptatione problematicis, si res ex decisione Romani Pontificis per actum stricto collegialem decerni debeat? Certe responsio definitiva non facile dari potest, sed valde dubitandum est de rectitudine affirmativi responsi. Non raro enim - historiatestificante - "minor pars" in principio discussionis "sanior" in fine remanet" (M. ZUROWSKI, *op. cit.*, p. 391).

As Tomko also points out, although the figures are now slightly different: "Pur riconoscendo che il numero dei vescovi presenti al Sinodo per *rappresentare* propriamente l'episcopato cattolico non può essere stabilito secondo un criterio matematico, It is not possible to see how two centuries of vassals can force 3000 vassals and 800 million catechists to make their own decisions, without such power being delegated to them by the one who is the principle of unity in the Church, that is to say, by the Pope" (J. TOMKO, *op. cit.*, p. 26).

According to A. Marranzini²⁷⁹, to whom we can associate A. Garuti²⁸⁰, the Synod of Bishops represents the Episcopal College only *in a moral sense*, inasmuch as all its members reflect the composition of the entire episcopate. The *vetum* expressed at the Synod offers a witness to the faith and life of the Church, but is neither supreme nor definitive, and does not commit those absent doctrinally.

other hand, assuming that the Synod truly and strictly represents the entire Catholic episcopate, one might ask how the Synod would differ from an Ecumenical Council

Finally we report here the thought of J. B. d'Onorio which seems to us quite right:

"Sent to the Synod by their respective conferences, the bishops do not represent the College of Bishops, but merely those conferences. They have not been given a mandate to vote on behalf of all their confreres, for episcopal magisterial power cannot be delegated. Their mandate is not imperative, but only relative, insofar as each bishop must, of course, inform the synodal assembly of the opinions of his own conference, but he is not bound by it; in fact, each member of the synod also expresses his personal opinions and always votes according to his own conscience and not according to instructions received before his departure for Rome. This allows the debate to move forward and promotes common conclusions, all of which would be prohibited by an imperative mandate^{*281}.

It can be said that after more than 35 years of experience, research and reflection, the meaning of the expression *totius catholici Episcopatus partes agens* remains an open question. The position which has been increasingly accepted by theologians, and which seems to be the one towards which the Church's magisterium is moving, is that which gives this expression a theological value. Thus, it must be understood that the participants in the Synod are exercising their concern for the churches without governing them either directly or indirectly. In so doing, they bear witness to the faith and life of the

279 "D Sinodo rappresenta il Collegio Episcopale non in senso stretto e giuridico, per cui sarebbe idoneo a compiere atti consultivi e decisionali in nome del Collegio; lo rappresenta solo in senso morale, in quanto di fatto tutti i suoi membri rispecchiano la composizione dell'intero Episcopato anche secondo le sue dimensioni territoriali. On what basis could the Vescovites in the past century oblige all the other members to dissent? Especially in the field of law, on what basis could their opinion prevail over that of the others? All this does not mean that the vote of the Holy See is of its own consultative nature (except for the conferring of deliberative power by the Supreme Pontiff to whom in this case ratification is requested). Such a vote is not valid only in formal terms, since the actual power of the Church cannot be compared to civil power. Such a vote - Cardinal Wojtyla affirmed - that only formally is a consultation for the Head of the Church (to whom office *an immense help in carrying out his mission*), is at the same time a testimony of the faith and life of the whole Church, a testimony expressed by the Vescovites for the responsibility they have for it and formulated for the solicitude they have for the whole Church" (A. MARRANZINI, *Il Sinodo organo della sollecitudine pastorale dei Vescovi* per il popolo di Dio in *Rivista del Clero Italiano* 64 [1983], p. 855).

280 A. GARUTI, *La collegialità oggi e domani*. Edizione Dehoniane, Bologna, 1982, p. 87.

281 J. B. D'ONORIO, *op. cit.* p. 414.

Church, but this witness is neither supreme nor definitive. Better still, we can say that the representation of the Catholic episcopate in the Synod is a representation *in the broad sense or a moral representation* of the world episcopate, which has no juridical value and does not commit each of the diocesan bishops. The Synod Fathers should not be seen as spokespersons for the local Bishops' Conferences, who would inevitably reflect the opinion of all or a majority of the members. The diversity of feelings, the nuances of expression existing within an episcopal assembly are really difficult to synthesize or express through one or more representatives. Moreover, at the Synod, according to the law, a large number of bishops are not called: they are absent and, consequently, cannot really participate in the debates, which favour a profound reflection on the proposed theme and a subsequent maturing of the judgement. All of this does not seem to allow the Synod of Bishops to be considered, at least ordinarily, as an organ of true representation of the College of Bishops, or as a form of direct participation in the power of government over the universal Church²⁸², a power which belongs by right to the Roman Pontiff or to the College of Bishops.

II - THE SYNOD OF BISHOPS AS AN EXPRESSION OF THE EPISCOPAL COLLEGIALITY

If we refer to what has been said in preceding chapter, it remains understood that the Synod of Bishops has as its essential end the strengthening of the bonds of communion and collaboration between the Supreme Pontiff and the Bishops of the whole world²⁸³. It is therefore not unrelated to that *affectus collegiatis* which links the Bishops to each other and to the Supreme Pontiff.

He -1. The Synod of Bishops as an effective expression

282 By analogy, from a juridical point of view, the power of government for major decisions in a Benedictine monastery not belongs to the restricted Council of the Father Abbot, formed by the moderator (the Father Abbot), the councillors chosen by him and the delegates chosen by the community. In fact, the most important decisions must be taken by the Chapter, that is to say, all capitular monks, by a two-thirds majority, by means of a vote preceded by a debate in which each one can express his opinion on the question being dealt with. The Chapter of the community has the extensive power that the restricted Council does not have, whose members are partly chosen by the General Moderator and partly elected by the community. The Synod of Bishops, which is made up of bishops, partly chosen by the Supreme Pontiff (15% of the total, not to mention the heads of congregations and dicasteries who participate *ex officio*), partly elected by the resident bishops in charge of a diocese, is not the same as the College of Bishops as a whole, where all the Bishops, in the event that the Pope has chosen the collegial way of exercising supreme power, are, by virtue of their episcopal character, involved in the final decision, at an equal level of responsibility.

283 *CLAposiolica soUicindo* II, in AAS 57 (1965), pp. 776-777.

de *Y affectus collegiatis*

The Synod is an expression of the solicitude of the world episcopate for the Church. Indeed, the bishops gathered in Synod are all animated, with regard to the universal Church, by that *solicitude* of which the Constitution *Lumen Gentium* speaks^{bl}. The conciliar text, in presenting the episcopate and its relationship to the universal Church, teaches that the Bishops, as pastors of their particular Church, are part of this collegial reality. While the Bishops are not called in an ordinary way to exercise jurisdiction over the universal Church, as established in number 22 of the Constitution, they remain bound to one another and to the Supreme Pontiff by this pastoral *solicitude*.

This is a direct consequence of the reception of the *episcopal munus* conferred at the time of episcopal consecration, which, even when it is not concretized in an act of jurisdiction, is no less effective for the good of the whole Church. We recall that the conciliar texts *Christus Dominus*⁶³ and *Ad Gentes*²⁸⁴ refer directly to concrete areas of application of this *solicitude* for the whole Church. This *solicitude* derives its *raison d'être* from the membership of each bishop in the College of Bishops, and its foundation is none other than charity, insofar as it substantially penetrates the structural and hierarchical reality of the Church. This *solicitude* is a form of *Vaffectus collegialis* which unites the bishops among themselves and these to the Roman Pontiff. The *conjunctTM cum sacris pastoribus* (this union with the holy pastors)²⁸⁵, of which Paul VI spoke in *Apostolic solicitude*, is identified with this collegial affection, understood as a common *solicitude* for the universal Church, and commitment to the service of the good of the whole Church. We have seen that the Second Vatican Council understands *Vaffectus collegialis*, not as a pure sentiment, but as an ontological reality which derives from the ordination²⁸⁶ sacramental of the bishops and which is ordered to collegial action, or effective collegiality²⁸⁷.

The Synod of Bishops, which brings together bishops from all over the world, is a form of collegial union that translates this pastoral *concern for the whole Church* into concrete action. In fact, this assembly synthesizes the desire of the Episcopal Body for a concerted reflection; it reflects all its efforts to remedy the difficulties that weigh on the universal Church, constituting for her a subject of concern²⁸⁸.

284 AG 38: "Episcopi omnes, ut membra corporis Episcoporum Collegio Apostolorum succedentis, non solum pro aliqua dioecesi, sed pro totius mundi salute consecrati sunt... Inde oritur illa communio et cooperatio Ecclesiarum quæ hodie tam necessaria est ad opus evangelizationis proseguendum. Vi istius communionis singulæ Ecclesiæ **solicitudinem** omnium aliarum ferunt, proprias necessitates sibi invicem aperiunt, res suas mutuo communicant, cum dilatatio Corporis Christi munus totius Collegii Episcoporum sit"

285 Cf. *Apostolica sollicitudo*, in AAS 57 (1965), p. 775.

286 Cf. Pars Ia, Cap. IV, § X-3.

287 Cf. A. ANTÓN, *La Collegialità nel Sinodo dei Vescovi*, in J. TOMKO, *il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Rome, 1985, p. 92.

288 According to A. Marranzini "this special *Permanent Council of the Sacred Pastors*, - destined to favour a wide union and collaboration between the Holy Father and the Vescovites of the whole world, to provide direct and accurate information, not come from any of the two

Thus John Paul II himself, speaking of the Dutch Synod which had just concluded, says that *it was a special expression of the collegial solicitude of the bishops of the whole world for P Church*TM. To the General Council of the General Secretariat of the Synod of Bishops, he will say that the Synod is a *privileged expression of episcopal collegiality, whereby the pastors of the dioceses share with the Bishop of Rome the solicitude for all the Churches*¹⁵.

On another occasion, he insists on the *collegial affection* of which the Synod of Bishops is the manifestation:

<The bishops gathered in Synod, *cum Petro and sub Petro*, make visible and active this *conjunctio*, which constitutes the theological basis, and the ecclesial and pastoral justification for meeting in Synod.

Thus it is clear that the Synod of Bishops is an effective expression of *collegial affection*, understood as a common concern for the universal Church, as a common service exercised in *caritas pastoralis*, in accordance with the will manifested by the Lord^{*289}.

That is why we can say, with G. P. Milano, that the Synod,

"either because of his particular character of authority and representativeness, or because he concretely realizes towards the universal Church the "solicitude", ontologically inherent in the Episcopal Body, or because of the particular relationship which unites him with the Head of the College is certainly one of the most intense expressions of this *affectus* or, as we are accustomed to say, of affective collegiality^{*290}.

Pope John Paul II, in his address to the Council of the Synod on 30 April 1983, emphasized this realization of *affective* and effective *collegiality*, which in the course of the Synod benefits the primatial functions of the Successor of Peter²⁹¹. At the first extraordinary assembly of the Synod of Bishops in 1969, the *Relatio* on the relationship between the Episcopal Conferences and the Holy See had as its aim to analyse, on the basis of well-established doctrinal principles, the content and collegial quality of the peripheral ecclesial bodies which concretely work for the good of several particular Churches or of the universal Church. With regard to the Synod of Bishops, it stated *that its celebration cannot*

types broadly *collegial action* already mentioned, but rather from that *solicitude* which, even if not exercised in a spirit of generosity, contributes to the good of the universal Church (LG 24)" (A. MARRANZINI, *Sinodo dei Ph- covi e Collegialità* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, pp. 115-116).

289 JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), p. 103. The Pope continues: "Nevertheless, the Synod is affirmed as a means of expression and action of the pastoral exercise of the *solicitudo omnium ecclesiarum* which is proper to each bishop, and of the *affectus collegialis* among bishops which corresponds to it" (*Ibid.*, p. 103).

290 G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giuffré Editore, Milano 1985, pp. 384-385.

291 "The Synod itself brings out the intimate link between collegiality and the primacy: the office of the Successor of Peter is also a service to the community of bishops, just as **effective** and **affective** collegiality is an important aid to the primatial service of Peter" (JOHN PAUL II, *Address to the General Council of the Synod*, 30 April 1983, in *Catholic Documentation* 1854 [1983], p. 612).

be considered an act of the College of Bishops, but, since it gathers the bishops deputed by the various Episcopal Conferences around the Successor of Peter (una cum Pétri Successore), it takes on a form of action which is a concrete application of the affectus collegialis of all the bishops, of which the Constitution Lumen Gentium (LG 23) speaks²⁹².

II - 2 Various types of collegiality to which the Synod of Bishops should be linked

what we have established in the preceding paragraph, namely, that *Vaffectus coUegialis* found one of its most striking manifestations the Synod of Bishops, it is necessary to see to what extent the Synod is also an expression of effective collegiality; then it will be necessary to determine, by means of the distinctions established in Chapter IV of our First Part, to what kind of collegiality (partial, full, *stricto sensu*, *largo sensu*) the Synod of Bishops should be attached.

II - 2.1 The Synod of Bishops as an expression of effective collegiality

To affective collegiality, which clearly finds its place at the heart of the Synod, corresponds effective collegiality, which is the concrete realization of a certain collegiality, even if it is not full or strict. Effective collegiality will be in relation to affective collegiality what the act of virtue is in relation to virtue considered as a *habitus*.

The value of a synod, therefore, cannot be derived or presumed superior prerogatives, but rests on typical synodal properties which answer to the names *collegialis affectus*, *coUegialis effectus*, *pastoralis conjunctio*, *capacitas pastoralis*.

"When we speak of *effective* collegiality and *affective* collegiality within the Synod, we do not mean to introduce or imply a *juridical opposition of terms*, but rather to indicate in a manner consistent with the nature of the Synod that incomparable interior disposition which consists in keeping the collegial spirit very much alive in the concrete exercise of the *caritas pastoralis*"³⁰.

II - 2. 1.1. *Communio at the root of the Synod*

The Synod in its general form (ordinary or extraordinary) has its roots in the Mystery of the Church as a community.

(*Ibid.*, "*Relatio de arctore Episcoporum*" of Cardinal Marty, 17 October 1969, in G. CAPRILE, *Il Sinodo dei Vescovi, Prima assemblea straordinaria [11-28 October 1969]*, pp. 483-488).

80. JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in

292 SYNODUS EPISCOPORUM 1969, *Relatio "Pastor atemus"* of Cardinal Marty, 15 October 1969, in G. CAPRILI, *Il Sinodo dei Vescovi, Prima assemblea straordinaria (11-28 ottobre 1969)*, Edizioni "la Civiltà Cattolica", Roma 1970, p. 479. Following the *Relatio*, on 17 October, the rapporteur, Monsignor Marty, reiterated that the Synod of Bishops

Catholic Documentation 2021 (1990), p. 104.

The College of Bishops gathers together those who have legitimately received the sacrament of the episcopate and have become fit to exercise the ministerial functions in the hierarchical Communion cum Petro et sub Petro. The College of Bishops gathers together in its midst those who have legitimately received the sacrament of the episcopate and have become fit to exercise the ministerial functions in hierarchical Communion *cum Petro and sub Petro*. This *Communio*, which unites the Bishops to each other and to the Supreme Pontiff, is constitutive of the College of Bishops. The Synod of Bishops, which gathers around the Roman Pontiff representatives of the Episcopal Body, most of whom have been elected by their peers, manifests this communion and even seeks to perfect and strengthen it²⁹³

"Considered in this light, the idea of communion is of great importance in its relation to the collegiality of Bishops in the Church... In fact, when the Bishops, who Pastors not only govern their Churches but also represent them, exercise in union with the Supreme Pontiff and under his direction their pastoral charge with regard to the universal Church, they are suitable instruments for that communication which makes ecclesiastical communion more vital and fruitful"²⁹⁴.

The ecclesial *Communio*, which K. Wojtyła considers a *dynamic unity*²⁹⁵, is thus the ultimate foundation in which the Synod of Bishops is rooted. The Synod appears as a consequence the unity and communion of all the Churches, and at the same time as a response to the need to preserve and strengthen this communion. The participants in the Synod are already united in the same communion of faith and love, clothed with the sacrament of the episcopate which has made them part of the College of Bishops, and made participants in the one pastoral task the good of the whole Church²⁹⁶.

II - 2. 1. 2. The Synod as a concrete illustration of this communion

Synods are signs of ecclesial communion, since by bringing together the various members of the Church they direct their attention and solicitude towards the general requirements and objectives of evangelization and charity^{*5}. Pope John Paul II says that *the Synod is also a special expression and instrument of ecclesial communion*^{*5}.

We know that effective collegiality is nothing other than the concrete

293 Let us not forget that one of the objectives of the Synod of Bishops, as specified in the *Motu proprio Apostolica sollicitudo* I, and indicated in canon 342 of the *CIC* (1983), is to promote a close union between the Pope and the bishops.

294 K. WOJTYŁA, *Intervention at the Synod of Bishops*, 15 October 1969, in G. SARAF (a cura di), *Karol Wojtyła e il Sinodo dei Vescovi*, Città del Vaticano 1980, pp. 161-162.

295 *Ibid*, p. 162: "Comunione is not other than unity in its dynamic dimension... La comunione infatti, designa quell'unità sotto l'aspetto dinamico..."

296 According to John Paul II, "in this way the Synod of Bishops is a magnificent confirmation of the reality of the Church in which the College of Bishops, 'composed of many bishops, expresses the variety and universality of the people of God, and gathered under one head, represents the unity of the flock of Christ' (LG 22)" (JOHN PAUL II, *Address to the General Council of the Synod*, April 30, 1983, in *La Documentation Catholique* 1854 [1983], p. 611)

application of this *affectus collegialis*, which is manifested in action through gatherings, steps, actions, common and visible initiatives part of the bishops in view of a spiritual good for the Church. We have seen in the first part that there are many and diverse forms of this effective collegiality, and that the Synod of Bishops represents one of these forms²⁹⁷. The Synod, being a highly qualified expression of the collegial *Communio*, therefore manifests this effective collegiality, which even if it is not the realization of a collegial act in the strict sense, is nevertheless a *privileged form of collegiality***. *The Synod is one of the particular expressions of the collegiality of the bishops with the Pope*²⁹⁸.

As Fr. de Lubac says, *the Synod is an expression, one could even say that today it is the most significant expression of the College of Bishops*²⁹⁹.

We take the liberty of quoting Cardinal Seper's report to the Synod of 1969, which accurately reflects this idea:

"Among the various ways in which collegial unity is expressed, the Ecumenical Council is the first. But there have been others in the past and there are still others today, among them the Synod of Bishops... In the Synod, in fact, and particularly in the General Synod - by its consultative nature, but which can in some cases, by the sole decision of the Pope, become deliberative as well - the whole College of Bishops truly expresses itself... Episcopal conferences, like the regional or provincial councils of the past, are today another way of exercising collegiality"³⁰⁰.

It can be said that successive Popes have recognized this value of effective collegiality in the Synod of Bishops and have expressed themselves widely in this sense, so that there is no doubt about it, even if some authors are still reluctant to use the word *collegiality* for a collegial reality which does not result in an act of collegiality in the strict sense³⁰¹. Let us quote Paul VI and John Paul II:

*But the Synod reflects more directly the episcopal collegiality around the Successor of Peter and exercises a consultative function with regard to the major orientations of the Church*³⁰².

*the Synod of Bishops manifests in a special way the collegiality of the episcopate, which in common with the Pope and under his direction exercises the supreme authority in the pastoral service of the Church*³⁰³.

297 Cf. Pars Ia, Cap. IV, § X - 3.

298 JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), p. 104.

299 H. de LUÛAC, *Eglise particulières, Église universelle, Conference given at the Centre Saint-Louis de France in Rome*, 28 October 1971, unpublished document.

300 F. SEPER, *Official Summary of the Report of Cardinal Seper to the 1969 Extraordinary Synod of Bishops*, October 13, 1969, in *La Documentation Catholique* 1550 (1969), p. 1961.

301 We think of authors like Milano, Laurentin, Alberigo, Colella, Sanchez y Sanchez, etc...

302 JOHN PAUL II, *Allocution during the consistory of cardinals*, April 30, 1969, in *Catholic Documentation* 1540 (1969), p. 1540. On another occasion, Paul VI said: "We believe that we have already given proof of our will to ensure concretely the development of episcopal collegiality: by instituting the Synod of Bishops, (PAUL VI, *Opening Address of the Synod of Bishops*, October 11, 1969, in *Catholic Documentation* 1550 [1969], p. 957).

303 JOHN PAUL II, *Letter to Dutch Catholics*, January 6, 1980, in *La Documentation Catholique* 1780 (1980), p. 167.

*However, in order that the collegiality of the episcopal ministry may have its place in the life of the Church, even outside an Ecumenical Council, the Second Vatican Council wished to establish the Synod of Bishops*³⁰⁴.

In view of what we have shown, it can therefore be said, without fear of error, that the Synod of Bishops is a form and manifestation of effective collegiality.

II - 2. 2. The Synod of Bishops as an expression of partial collegiality

Theological reflection leads to the justification of a broader and more dynamic vision of collegiality, in the sense expressed by the Popes since the Second Vatican Council. In fact, there is no reason why, if each bishop receives a participation in the *Communio collegialis* in episcopal ordination and maintains this participation even when he is alone in his diocese, we should not speak of collegiality when a group of bishops shows pastoral solidarity, a common exercise of responsibility, either on the occasion of restricted meetings, as is the case of episcopal conferences, or on the occasion of the Synod of Bishops, which gathers together bishops from around the world. The spiritual awareness of the co-responsibility of the pastors for the whole Church, the psychological force that emanates *the affectus collegialis*, are factors that orientate towards an actualization of collegiality, not only on those occasions when the bishops act collegially, either in the Ecumenical Council or by common accord when they are scattered throughout the world, but also in other occasions or forms, such as the Synod. Starting from the Ecumenical Council, considered as *analogatum princeps*, the post-conciliar pontifical magisterium has recognized the theological legitimacy of the gradual diversification of episcopal collegiality, to apply the epithet to the great variety of episcopal assemblies inspired by the collegial principle. Thus, Pope John Paul II often refers to various forms of exercising collegiality, distinguishing only degrees in its realization. Let us quote, by way of illustration, his address of 7 February 1979 to the Third Conference of the Episcopate of Latin America:

"The Council is the most complete expression of the episcopal office in the Church. Its other manifestations do not have such a fundamental significance. However, they are very necessary and useful, sometimes even indispensable. This applies to collegial institutions..., and to the various forms of collegial activity"³⁰⁵.

On June 28, 1980, Pope John Paul II, in a brief review of his pontificate before the Roman Curia, stated that *the Council had demonstrated that Peter's mission was a primate mission in a collegial setting*, and he pointed to six privileged and unique forms or moments of episcopal collegiality: *the Synod, the College of Cardinals, national episcopal conferences, apostolic journeys, ad*

304 JOHN PAUL II, *Opening Address to the Plenary Meeting of the Sacred College*, 23 November 1982, in *Catholic Documentation* 1843 (1983), p. 1. The same Pope said in an address to the Roman Curia: "First of all, the Synod of Bishops opens up great possibilities for this collegial collaboration of the Episcopal Body of the whole world around the Successor of Peter" (JOHN PAUL II, *Allocution to the Sacred College and to the Roman Curia*, 28 June 1980, in *Catholic Documentation* 1790 [1980], p. 667)

305 JOHN PAUL II, *General Audience*, 7 February 1979, in *Catholic Documentation* 1759 (1979), p. 209.

limina visits and the Roman Curia itself The Pope wished to see an increase in this multiform collegiality, according to the witness given to the Church by the Dutch and Ukrainian bishops gathered in Synod in Rome³⁰⁶.

Thus for many theologians and canonists it is clear that there are various degrees of collegiality, and that among the partial but true forms of collegiality is the Synod of Bishops³⁰⁷.

We will consider in the next chapter whether the Synod of Bishops can be considered an expression of full collegiality.

The Synod of Bishops as an expression of collegiality in the broad sense

view of what was said in paragraph I about the representation of the College of Bishops by the Synod, we can echo the opinion of those who do not see the Synod as a true organ of representation considered as the exact juridical expression of the College of Bishops but rather as a moral representation of the episcopate. Thus, logically, the Synod of Bishops is a reflection of collegiality in the broad sense, that is, a place where collegiality is exercised according to the spirit of the conciliar text *Lumen Gentium* 23". It is not collegiality in the strict sense, with direct participation of the College of Bishops, *cum et sub Petro*, in the government of the universal Church.

According to Cardinal Marella, President of the *De episcopis* Commission in charge of drawing up the schema on the pastoral office of bishops, the Synod can be defined as a symbol, a sign of collegiality, but not as the explicitation of collegiality in act, understood in its doctrinal sense, as is the case, for example,

306 JOHN PAUL II, *Allocution to the Sacred College and the Roman Curia*, 28 June 1980, in *La Documentation Catholique* 1790 (1980), pp. 667-677.

In his 1983 address to the General Council of the Synod, the Pope speaks explicitly of degrees or intensity of collegiality and makes a comparison between the Ecumenical Council and the Synod of Bishops: "The solidarity which unites them and the concern for the whole Church is manifested to a very high degree when all the bishops are gathered together *cum Retro* and *sub Petro* at the Ecumenical Council. Between the Council and the Synod there is obviously a qualitative difference, but in spite of this the Synod expresses collegiality in an extremely intense way, even if it is different from that of the Council" (JOHN PAUL II, *Address to the General Council of the Synod*, April 30, 1983, in *La Documentation Catholique* 1854 (1983), pp. 611-612)

307 Let us quote the editorial of the magazine "La Civiltà Cattolica": "Che si debbano, dunque, ammettere vari gradi di realizzazione nella collegialità è conclusione che promana teologicamente dalla dottrina del Vaticano II, la quale espressamente cita, come forme parziali ma vere di collegialità, i patriarchati orientali e le Conferenze episcopali (cf *Lumen Gentium* 23 d). Ci sembra, pertanto, che alla domanda posta inizialmente, se il Sinodo sia espressione e strumento di collegialità episcopale, si debba dare una risposta positiva, purché, partendo dal concetto differenziato di collegialità, si attribuisca al Sinodo un carattere di collegialità vero e autentico, ma non pieno,.... and always essentially different from the broadly detached collegiality proper to the Ecumenical Council" (*Editoriale in Civiltà Cattolica* 136/IV [1985], pp. 112-113).

Let us also quote N. Loda: "We are facing in the Sinodo of the Vescovites a realization of true but partial collegiality, in a process that realizes a gradual increase in forms" (N. Loda, *La Collegialità nella Chiesa con particolare riguardo alle varie forme di collegialità episcopale*, P. U. L., Roma, 1995, p. 167).

For J. B. d'Onorio, "the Synod is only a partial expression of collegiality; it is not its incarnation because of its limitation in substance (it is only consultative) and in form (it does not include the Catholic episcopate in its totality)" (J. B. D'ONORIO, *op. cit.*, p. 413).

with an Ecumenical Council¹⁰.

In the words of V. Fagiolo, we can read this distinction between collegiality in the broad sense, which is that of the Synod of Bishops, and collegiality in the strict sense, which translates into a collegial act of jurisdiction over the universal Church, emanating from the College of Bishops united to its Head, as described in *Lumen Gentium* 22.

"As has already been pointed out, collegial activity in the strict sense is found in the Ecumenical Council (...). On the contrary, there are various ways in which collegial activity in the broad sense can be carried out for the whole Church. The mode implemented in the Synod instituted by Paul VI, by the representation in it of the whole episcopate, by its convocation by the Supreme Pontiff, and thus by the union between the episcopate and the papal primacy, with the consequent exercise of an action of the episcopate in aid of the supreme power, constitutes an exercise of episcopal activity which comes very close to collegial action in the strict sense, even if it is not absolutely identical to it"³⁰⁸.

For G. Alberigo³⁰⁹ and for J. Sanchez y Sanchez³¹⁰, the Synod is not a manifestation of collegiality in the proper sense. These authors use the word *collegiality* in a univocal way, identifying it with what we have called *collegiality in the strict sense*.

who consider the possibility of the Synod representing the College of Bishops in a real or ontological sense deny that the Synod of Bishops is a regular organ of collegiality in the broad sense, at least in cases where deliberative power has not been conferred upon it

For example, for Fr. Bertrams:

"The activity of the Synod of Bishops is not, by its very nature, an exercise of the supreme *potestas* of the Church (...). We mean that their faculty of *informing and advising* has a real influence on the exercise of the supreme power (conferred by the Lord on the Supreme Pastor to be exercised personally as the Vicar of Christ). For this reason, the activity of the Synod constitutes an authentic actualization of the principle of collegiality of the Episcopal Body (even if it is to be considered in a broad sense) in relation to the government of the universal Church"³¹¹.

308 V. FAGIOLO, *op. cit.* p. 24.

309 Risolta così inequivocabile come il Sinodo non riguarda la forma collegiale di esercizio del potere sulla Chiesa universale, ma invece attenga in modo diretto alla forma personale di tale governo. It is not a manifestation in the proper sense of collegiality, either because it has a consultative function, or because when it has a deliberative capacity, it is not derived from God through the episcopal consecration of its members, but from the Father" (G. ALBERIGO, *Piramide di paure e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*. Editrice A. Mondadori, Verona, 1969, p. 145).

310 According to Sanchez y Sanchez, the institution of the Synod of Bishops is a small attempt to put into practice the principle of episcopal collegiality. *In its present disposition, unless the Pope decides otherwise, the Synod is not the official organ through which collegiality is manifested* (J. SANCHEZ y SANCHEZ, *Conferenze Episcopali e Curia Romana*, in *Concilium* 15 [1979], pp. 1252-1256).

311 W. BERTRAMS, *Commentarium in Litteras Apostólicas " Apostolica sollicitudo** in

The possibility of considering the Synod of Bishops as a place for the exercise of collegiality in the strict sense will be the subject of a special study in the following chapter.

III - THE SYNOD IN THE PRIMACY-COLEGIALITY RELATIONSHIP

The function of the Synod of Bishops as an aid and counselor to the Supreme Pontiff in facilitating the exercise of the government of the universal Church in no way contradicts the very valuable role that this organism assumes in strengthening the collegial bonds that unite the bishops among themselves and the bishops with the Pope, and it would be a pity to see a kind of contradiction between these two essential functions of the Synod of Bishops, as it was set up in the document *Apostolica sollicitudo*³¹². Some authors, wanting to see only the first aspect, will tend to consider the Synod as a purely servile and technical instrument at the service of the Roman Pontiff, without recognizing the collegial value of this organism which facilitates and strengthens communion within the entire Episcopal Body and at the same time participates, to a greater or lesser extent, in the final decision making^{1 06}. Others, on the other hand, might be tempted to see in this organism a privileged instrument of a misunderstood collegiality³¹³, so that the primatial role of the Pope would simply disappear and give way to a consensus of bishops, representatives of the universal episcopate. To conceive of the role of the Synod of Bishops in this reductive way is, in the end, to break the dynamism of episcopal collegiality. With J. I. Arriera, we believe that the twofold purpose of the Synod is *to assist the Roman Pontiff in the government of the universal Church and to strengthen the bonds that unite the members of the episcopate to each other and to the Pope, and that these two elements are interwoven and intimately united in the idea of the collegiality of the episcopate*³¹⁴.

III - 1. The Synod of Bishops as an instrument of episcopal collegiality

That the Synod of Bishops is an instrument of episcopal collegiality, Pope John Paul II often repeats in his addresses:

"The Synod is obviously the instrument of collegiality as well as a powerful factor of communion different from an Ecumenical Council"³¹⁵.

Periodica 55 (1966), p. 123.

312 "Es necesario, por supuesto, que se evite toda sombra de concebir la colegialidad como rival o excluyente del ejercicio personal del primado del Papa" (R. BLÁSQUEZ, *Una institución conciliar con futuro: el Sínodo de los Obispos* dans *Ecclesia Termini Millennii Advenientis, Omaggio al R Ángel Antón*, Piemme, Casale Monferrato, 1997, p. 577)

313 For these authors, the Synod should exercise the *supreme potestas*, but the present norms of the *Motu Proprio* and the *Regulations* keep the assembly too much under a tutelage that would contradict its nature. For Laurentin: "the Synod of Bishops has an importance almost equal to that of the Council" (R. LAURENTIN, *L'Enjeu du Synode*, Éditions du Seuil, Paris 1967, p. 97).

314 J. I. ARRIETA, *El Sínodo de los obispos*, Ediciones EUNSA, Pamplona, 1987, p. 194.

315 JOHN PAUL II, *Address to the General Council of the Synod*, 30 April 1983, in

"The Synod is a particularly fruitful expression and instrument of episcopal collegiality"³¹⁶.

"It is for the Synod, in fulfilling its function as a precious instrument of episcopal collegiality, evaluate the results obtained and to formulate appropriate indications"³¹⁷.

Although the Synod of Bishops is not identified with the College of Bishops, it does represent it in a certain way, at least morally, as we have seen in paragraph I of this chapter It consolidates and strengthens the collegial bonds not only of the participants but also of the entire Episcopal Body, which from near and far prepares and follows the debates and then takes note of and benefits from the conclusions ratified by the Holy Father Thus, as A. Anton, even if it is not appropriate to give the Synod of Bishops a strictly collegial value, it is possible in a differentiated and dynamic vision such as that of John Paul U to recognize the Synod as a place and an organ of collegiality³¹⁸. In the Synod, collegiality is realized insofar as it is a living reality of communion³¹⁹ tending towards unity in a legitimate pluralism, and insofar as it is open to a mutual communication of visible and invisible goods, and oriented towards a co-responsibility at the level of the pastoral government of the universal Church³²⁰. For John Paul U, the Synod is a privileged instrument of this episcopal collegiality:

The Council has shown that the mission of Peter is a mission of *primacy*

Catholic Documentation 1854 (1983), p. 611. In the same address, the Pope recalls that "the Synod is in fact a particularly fruitful expression and a *valid instrument of episcopal collegiality*, that is, of the particular responsibility the bishops around the Bishop of Rome" (*Ibid.*, p. 612).

316 JOHN PAUL II, *Homily on the occasion of the ordination of Joseph Toniko*, 15 September 1979, in *L'Osservatore Romano*, 17 and 18 September 1979, p. 3, col. 1.

317 JOHN PAUL II, *Address to the General Council of the Synod*, 19 May 1984, in *Catholic Documentation* 1880 (1984), pp. 834-835.

318 Á. ANTÓN, *op. cit.*, p. 90.

319 - The Synod of Bishops is **an instrument for promoting ecclesial communion**. When Pope Paul VI instituted the Synod towards the end of the Vatican Council, he made it clear that one of the essential tasks would be to express and promote the communion of the bishops throughout the world under the direction of the Successor of Peter. The principle underlying the institution of the Synod of Bishops is simple: the closer the communion of the bishops among themselves, the more the communion of the Church as a whole is enriched" (JOHN PAUL II, Apostolic Exhortation *Ecclesia in Africa* 15, 14 September 1995, in *La Documentation Catholique* 2123 [1995], pp. 820-821)

The exercise of the collegiality of the pastors in the Synod becomes a reciprocal exchange which **serves the communion of the bishops** as well as that of the faithful and, in the final analysis, the very unity of the Church in its dynamic dimension" (JOHN PAUL II, *Address to the General Council of the Synod*, April 30, 1983, in *La Documentation Catholique* 1854 [1983], p. 612)

- Much has also been done since the Second Vatican Council with regard to the reform of the Roman Curia, the organization of Synods and the functioning of Episcopal Conferences. But there is certainly much to be done to give full expression to the potential of **these instruments of communion, which are** particularly necessary today, when it is indispensable to respond quickly and effectively to the problems which the Church must face in the midst of the rapid changes of our time" (Apostolic Letter *Novo Millennio Ineunte* 44 in *Catholic Documentation* 2240 [2001], p. 83)

320 Cf Á. ANTÓN, *Ibid.*, p. 96.

within the framework of collegiality. We must always and in different ways go back to this truth of the existential principle the Church which is lived daily by the Church herself in a form more adequate to the demands of the present time, according to the indications of the Council

"First of all, *the Synod of Bishops* opens up great possibilities for this collegial collaboration of the whole world's Episcopal Body around the Successor of Peter"³²¹.

Let us recall what we have already highlighted in Chapter II of this second part³²²: in a Synod, the *votum* of a bishop is not simply an opinion, *but a witness given together with his confreres in the episcopate*, by a person responsible for the faith of the Church, by reason of the sacrament of the episcopate, received in the hierarchical communion³²³. We have established that the bishops, assembled in Synod, concretely realize the communion of the Churches in the one Church of Christ and make it operative alongside the Pope. This theological perspective, which takes into account the immanent relationship between the ministry of the Supreme Pastor and that of the other pastors, raises us far above the juridical debates which try to determine whether the Synod of Bishops falls into the category of collegiality *stricto sensu*. With Archbishop Corecco³²⁴, it can be said that the consultative votes of the Synod can serve to express the collegial relationship inherent in the primal ministry of Peter, in relation to that of the other bishops. The Pope, as a personal subject through whom the College of Bishops becomes operative, while remaining uniquely responsible for his act, is determined by the collegial relationship that binds him to the other bishops, in virtue of the fact that he is clothed with the same sacrament and the same Word, and in virtue of the fact that the Church of Rome belongs constitutively to the *Communio Ecclesiarum*.

As A. Marranzini says:

The Synod, on the one hand, attests to and exalts the collegiality and co-responsibility of the bishops, and on the other hand, it confirms the primacy: collegiality is also a specific way of actualizing the primacy in the Church. Reason, the synodal reality that derives from an ecclesiology that includes collegiality and the primate, reinforces the relationship between the two terms: the primate values

321 JOHN PAUL II, *Allocution to the Sacred College and the Roman Curia*, 28 June 1980, in *Catholic Documentation* 1790 (1980), p. 668.

322 See Chapter II, § 11-1.

323 Cardinal Wojtyła wrote in an article: "The institution of the Synod of Bishops has made it possible once again for that *potestas*, which always has a doctrinal and pastoral character inherited from the Apostolic College, to emerge from dispersion and to express itself through a common act and a collegial *votum* on questions fundamental to the Church in our time. Such a vote, which is only and formally a consultation for the Head of the Church, is at the same time a *witness to the faith* and life of all the Churches, a witness expressed by the bishops because of the responsibility they have for each of them, and the solicitude for the whole Church" (K. WOJTYŁA, *Sul Sinodo dei Vescovi*, article published on 5 March 1972 in *Tygodnik Powszechny* 26 [1972] No. 20, in G. SARAF [a cura di], *Karol i bjiyla e il Sinodo dei Vescovi*, Città del Vaticano 1980, p. 310).

324 Cf. E. CORECCO, *Ontologia della sinodalità*, in AA. W., *la sinodalità nell'ordinamento canonico*, Padova, Editrice Dott. A. Milani, 1991, p. 21.

collegiality and in turn is valued by it"³²⁵. Bertrams also believes that the Synod of Bishops should be seen as a means of common responsibility between the bishops and the Supreme Pastor, particularly suited to our times, and that in this way it serves collegiality. For him, *the Synod of Bishops exercises a collegial activity which comes very close to collegial activity in the strict sense; in fact, every Episcopate has its own representatives in the Synod and thus the whole episcopate has areal and true power of influence in the exercise of supreme power on the part of the Sovereign Shepherd of the Church*³²⁶.

m - 2 The Synod in relation to the primatial government

We have had occasion to develop in the preceding paragraph the singular role that the Synod of Bishops plays in the exercise of collegiality, how it maintains it, favours it and allows it to flourish. But it is important to see more specifically how the Synod of Bishops, while being an effective instrument of collegiality, also provides valuable assistance to the primatial service of the Pope³²⁷.

III - 2 - 1 Distinction between the juridical and theological aspects of the Synod of Bishops

It is certain that the Synod of Bishops, considered in its juridical meaning, is a consultative organ of the primatial office, since it is usually consultative in nature and provides valuable assistance to the Supreme Pontiff in the exercise of his primatial office³²⁸. An example is Archbishop Onclin:

This Synod, which is intended to give effective assistance to the Supreme Pastor in the government of the Church, is not, strictly speaking, an organ of the College of Bishops, capable of carrying out acts of a collegial nature on behalf of the College. Rather, it is an organ of the power exercised by the Supreme Pontiff, whom it is called upon to assist in carrying out his own task

325 A. MARRANZINI, *Sinodo dei Vescovi e il suo funzionamento* in J. TOMKO, *H Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 118.

326 W. BERTRAMS, *Struttura del Sinodo dei Vescovi*, in *La Civiltà Cattolica* (1965), 136/IV, p. 421. He adds, with regard to the influence of the Synod on government of the universal Church: "By means of the Synod of Bishops, the College of Bishops exerts areal influence on the government of the Church" (*pp. cit.*, P 423).

327 Let us recall the teaching of the Congregation for the Doctrine of the Faith concerning the primacy of the Successor of Peter: "The primatial function and the function of the other bishops are not in contradiction but in an original and essential harmony... Conversely, it must also be affirmed that episcopal collegiality is not in opposition to the personal exercise of the primacy and must not relativize it" (CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Reflections on the theme "The Primacy of the Successor of Peter in the Mystery of the Church"*, in *La Documentation Catholique* 2193 [1998], p. 1017)

328 We have spoken at length about the consultative role of the Synod of Bishops in Chapter II, § II and have shown in conclusion how the absence of ordinary deliberative power does not relegate the Synod of Bishops to a subordinate level, as if it were a secondary body with very limited influence on the government of the Church. It is and remains the privileged place where the *witness* of many bishops concerned for the good of the universal Church is manifest

as head of the College. Nevertheless, composed of Bishops chosen from the universal episcopate, it is the manifest sign of the solicitude of all the Bishops towards the whole Church and of their responsibility towards the universal Church"³²⁹.

Joseph Ratzinger echoes the distinction that remains central to the analysis of the Synod of Bishops, between the purely juridical aspect and the theological aspect, where the role of the Pope and the synodal assembly are articulated to produce an act with a certain collegial value:

"But in any case, what happens is this: *juridically*, the Synod, which is not a Council, nor a collegial act of the bishops dispersed throughout the world, does not seem to be able to conceive itself otherwise than in its participation in the office of the Roman Pontiff. Nevertheless, *theologically* and according to its pastoral scope, it promotes the link between the Roman Pontiff and the College of Bishops"³³⁰.

J. B. d'Onorio also highlights the distinction between the two aspects, legal and theological, and his conclusion is in line with our demonstration:

The Synod is therefore only a partial expression of collegiality; it is not its embodiment because of its limitation in substance (it is only consultative) and in form (it does not include the entire Catholic episcopate). The Synod is therefore not the exercise of the participation of the College of Bishops in the power of the Pope, ... but only the sign that all the bishops participate, in a hierarchical communion, "in the care of the universal Church" since the Synod works in the name of the whole Catholic episcopate. That is, the Synod participates in the moral and pastoral responsibility of the whole Church, but not in its juridical and effective responsibility. In other words, it is not comparable to a collegial directorate of the Church"³³¹.

It is true that a number of authors limit the function of the Synod of Bishops to the exercise of the primatial function, refusing to see in it a valid expression of collegiality, and thus neglecting the theological aspect of this institution, which is nevertheless preponderant. It is sufficient to quote V. Ferrara³³², A. Acerbi or G. Alberigo, who, being too strictly juridical, reduce the Synod of Bishops to an organ of consultation convenient for the Pope, but ineffective on the ecclesial level to assume any responsibility in government of the universal Church. *The function of the Synod is to provide advice, but not to address the Church with authority to express the judgment of the episcopate on certain issues*¹²¹.

G. Alberigo, after some initial uncertainty, now maintains that, according to

329 W. ONCLIN, *Les Évêques et l'Église universelle*, in *La charge pastorale des évêques*, Unam Sanctam 71, Les Éditions du Cerf, Paris, 1969, p. 94.

330 J. RATZINGER J., *Scopi e metodi del Sinodo dei Vescovi*, in J. TOMKO, *H Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 49).

331 J. B. D'ONORIO, *op. cit.* p. 413.

332 "Therefore, it (the Synod) is a participation in the primary personal government of the Pope over the whole Church, but not in the collegial government of the Pope and the Episcopal College in communion with him" (V. FERRARA, *Il Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 [1969], p. 546).

the doctrine of Pope Paul VI himself, which is almost unanimously accepted, the Synod of Bishops is essentially an advisory body to the Pope with the aim of assisting him in the exercise of his authority in a personal form³³³.

Some authors, with more nuance, such as C. Cardia³³⁴, in consideration of the valuable services that the Synod of Bishops brings to the primatial power in order to favour its exercise, will refuse to see in it a truly effective organism on the collegial level.

III - 2. 2. The Synod as the participation of the episcopate in the personal primatial government of the Pope

The Papal Magisterium clearly highlights the dual service of this institution: a collegial service to the Church and a service to the primatial office of Peter. For example, Paul VI explains how synodal assemblies are useful both for the exercise of the Petrine ministry and for the collegial service of the Episcopal Body, associated with the Roman Pontiff:

It is the unity and solidarity within the Catholic hierarchy which gives its primary purpose and reason for the foundation of this new organ of the pastoral government of the Church. The other purpose is the help, advice and support which we expect to be given to a greater extent by the episcopate in the exercise of our ministry. And if this is to the advantage of the primatial office, which Christ assigned for the good and service of the Church to the Apostle Peter, and after him to his legitimate successors in this chair in Rome, it is equally to the honour of the College of Bishops, which is thus associated in a certain way with the Roman Pontiff in the care he has for the universal Church³³⁵.

This relationship between the primate and the Episcopal Body in the Synod, according to Pope John Paul II, has its origin in the Mystery of communion which unites all the members of the College among themselves. There is indeed an interpenetration of the two realities, primacy and collegiality, so that one is at the service of the other and vice versa:

333 G. ALBERIGO, *Istituzioni per la comunione tra l'episcopato universale e i vescovi della Roma cristiana nella storia 2* (1981), p. 244. The author also affirms that "the Synod of Bishops, even if it plays a significant role in increasing collegial sensitivity of the episcopate, is situated in the economy of the personal exercise of the Pope" (*ibid.*, p. 257).

334 "There are, however, reasons that make us doubt the possibility of fully integrating the Sisters into the episcopal community and that make us favour a collateral and auxiliary function in the primary. Technically speaking, however, the lack of an autonomous decision-making capacity makes the Council of Bishops capable of acting collectively, but not of making decisions, as is the prerogative of the Episcopal College united with the Pope (...). The limited participation, if only on an elective basis, of the members of the Episcopal College prevents us from seeing in the Synod the expression of that episcopal collegiality which has as its presupposition the convergence of the universal episcopate in view of certain choices. E ancora la diretta dipendenza dal Papa, i cui poteri sono assoluti tanto nel dare impulso e contenuto a tale assemblea quanto nel regolarne il funzionamento, confermerebbe che la funzione primaria del Sinodo resti quella di assistere e aiutare il Pontefice nell'esercizio della potestà primaziale" (C. CARDIA, *Il governo della Chiesa*, Il Mulino, Bologna, 1984, p. 240).

335 PAUL VI, *Allocation for the first meeting of the Synod of Bishops*, 30 September 1967, in *Catholic Documentation* 1503 (1967), p. 1737.

"This is how the vital relationship between the *solicitude omnium Ecclesiarum* of every Bishop and the primacy of Peter takes on its force, as I have already had occasion to state in the past: *in the mystery of the Church, all elements find their place and function. And so the office of the Bishop of Rome inserts him deeply into the Body of Bishops, as the center and pivot of episcopal communion; his primacy, which is a service for the good of the whole Church, places him in a relationship of union and more intense collaboration. The Synod itself highlights the intimate link between collegiality and the primate: the office of the Successor of Peter is also a service to the collegiality of the bishops and, conversely, the effective and affective collegiality of the bishops is an important aid to the primal service of Peter*"³³⁶.

This assistance of the Synod to the exercise of the primal function is not part of a collegiality in the strict sense, that is, adirect exercise of supreme power over the universal Church by the College of Bishops, but constitutes truly a place for the exercise of collegiality. Thus for Father Rouquette, *the Synod is indeed one of the first fruits of a new era for him, for the Church, and for the papacy, and before the Council, few people thought of a representation of the Episcopate before the Pope. However, it does not seem that the Synod constitutes a direct exercise of the supreme authority which, in communion with the Roman Pontiff, the Episcopate possesses over the universal Church. It is, however, in some relation to this doctrine of the collegial authority of the Episcopal Body*³³⁷.

III - 3 Value to be attributed to the conclusions or advice of the Synod updated or ratified by the Supreme Pontiff in the context of Primate-Collegiate relations

It is now opportune to return to what we examined in Chapter III of our first part, concerning the subject of supreme power over the universal Church, and to show how, from the various positions adopted on this point, different consequences logically follow as to the value to be accorded to the possible councils and deliberations of the Synod of Bishops in the order of collegiality.

Staffa, U. Lat- tanzi, M. R. Gagnebet, A. Gutiérrez, we encounter simpler solutions:

Thus in the case of the *wholly collegial*TM *thesis*, any exercise of the power of jurisdiction on the part of the Pope is considered *to per se* an action of the College of Bishops, with the Pope always acting as the head of the College. The role of the Synod in relation to the ultimate decision ratified by the Pope, is paramount; the Pope's decision is primarily that of the College of Bishops, and therefore it is a collegial decision emanating from the Synod of Bishops, the body representing the College no longer any reason to distinguish between a consultative or deliberative activity of the Synod, since the final result is indeed an act of the College of Bishops, the function of the Pope and the function of the Synod of Bishops being

336 JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), p. 104. Cf. also *Address to the General Council of the Synod*, 30 April 1983, in *Catholic Documentation* 1854 (1983), p. 612.

337 R. ROUQUETTE, *Une nouvelle Chrétienté, Le premier Synode épiscopal*, Les Éditions du Cerf, Paris, 1968, p. 7.

correlatively immanent. The conclusions reached are always the fruit of the joint participation of the Synod and the Roman Pontiff³³⁸, and are ultimately led by an action of the College of Bishops³³⁹.

In the case of the *monarchical thesis*³⁴⁰, the Pope is the only source of *potestas*, including that which could possibly be exercised by the Synod of Bishops, should the Pope grant it a deliberative function. In this hypothesis, the Pope exercises all the power/jurisdiction, and the Synod of Bishops is merely a means of information, of advice, of advancing ideas, an organ which, *per se*, does not participate directly in the power of decision over the universal Church: always the Pope who, by an act which belongs to him alone, confers on the suffrage expressed by the synodal assembly an effectiveness *ad extra*. In this case, too, the distinction between the consultative and deliberative functions of the Synod of Bishops is purely formal and is rather a matter of the external order of the procedure, since the Pope always remains the supreme authority who makes the decision and assumes responsibility for it by an act that is strictly personal to him.

The question is more delicate if we place ourselves in the hypothesis of *the theory of the double subject of jurisdiction*³⁴¹ over the universal Church. In this hypothesis, it is necessary to admit two inadequately distinct subjects of the *sacra potestas*, namely, on the one hand the Pope, who exercises his power of jurisdiction personally, and on the other hand the College of Bishops united to its head, which acts in collegial manner, by an act which is at the same time an act of the Pope and an act of the universal episcopate. In this case, therefore, it will be a matter of determining to which subject of the *sacra potestas* (the Pope or the College of Bishops) the power exercised by the Synod of Bishops should be attributed.

338 This is how V. Fagiolo when he writes: "credo possa condividersi l'opinione di chi sostiene che i compiti attribuiti al Sinodo dal Motu proprio *Apostolica sollicitudo* sono tali da far ritenere l'azione di quest'organismo come un'azione veramente collegiale, anche se non conciliare, in tutti i casi, evidentemente, in cui il Papa ne accetti il consiglio o le decisioni" (V. FAGIOLO, *op. cit.* p. 42).

339 Pope Paul VI in the opening address of the 1969 Synod alludes to the co-responsibility of the episcopate in the government of the universal Church: "The other line, which also stems from the great esteem in which we must hold episcopal collegiality, and which will also be faithfully followed by us, leads the episcopate to a more organic participation and to a **more solidary co-responsibility** in the government of the universal Church" (PAUL VI, *Opening Address of the Synod of Bishops*, October 11, 1969, in *Catholic Documentation* 1550 [1969], p. 958).

John Paul II speaks of the Synod of Bishops as a "valid instrument of episcopal collegiality, that is, **of the particular responsibility of the bishops around the Bishop of Rome**" (JOHN PAUL II, *Address to the General Council of the Synod*, April 30, 1983, in *La Documentation Catholique* 1854 [1983], p. 612)

Some might deduce that the Synod is one of these forms of co-responsibility: the government of the Church and therefore that the final decisions taken by the Supreme Pontiff are indeed decisions proper to the Synod (including the elected members and the presiding Pope)

340 See Part I, Chapter III, § II.

341 This is also the opinion of G. P. Milano who says: "Di maggiore complessità le questioni che si pongono al cospetto della teoria del duplice soggetto non adegua- mente distinto; qui infatti si tratta di verificare a quale delle due entità (il Papa o il Collegio) sia da ricondurre in termini di imputazione giuridica la potestà esercitata dal Sinodo - (G. P. MILANO, *Il Sinodo dei Vescovi*, - Università di Sassari, Giuffrè Editore, Milano 1985, pp. 386-387)

Theologically, we see the possibility of a collegial exercise of the power of jurisdiction over the universal Church, as *Lumen Gentium* describes it in number 22. In such a case one could speak of a collegial exercise in the strict sense, if it were proven that the action of the Bishops gathered in Synod is identified with that of the College of Bishops dispersed throughout the world. This question will be the subject of our last chapter.



In conclusion, it appears that the Synod, while correctly understood in its juridical meaning as a consultative organ of the primatial office, reveals all its theological richness as an organ at the service of collegiality: it strengthens, while profoundly uniting them, the responsibility of the Supreme Pastor for the whole Church and the participation *in sollicitudine* for the universal Church of those whom Christ has chosen to lead His Church; the Synod also facilitates the communion of the particular Churches among themselves and the communion of each of them with the universal Church, the bonds of communion among the bishops and the bonds of communion and subordination of the bishops with the Pope. It is therefore an institution which not only expresses an affective collegiality, but also implements an effective collegiality, understood in the broad sense, serving to strengthen the communion of the whole Church. Finally, in its internal dynamism, the Synod reveals itself as a *particularly fruitful expression and a very valid instrument of episcopal collegiality*³⁴².

In the context of the relationship between primacy and collegiality, it assumes a privileged function, inasmuch as it is at the service both of collegiality and primacy, allowing for a practical harmonization of the two terms of this binomial, and this especially because of the representative value of the College of Bishops by the Synod itself.

We borrow from Cardinal Tomko these words which we gladly make our own:

"The synodal idea rooted in communion and theological collegiality (which are far more complex than a

342 We refer once again to this expression so often used by Pope John Paul II himself.

This is a novelty that may seem paradoxical only to those who have not penetrated deeply into the theological meaning of collegiality and the Petrine primacy. It is a novelty that may seem paradoxical only to those who have not penetrated deeply into the theological meaning of collegiality and the Petrine primate: through the synodal experience the relationship between primate and episcopate is renewed, a relationship that too often is proposed in terms of antagonism. Through the Synods, the primate enhances collegiality and the episcopate, but, as if in return, the primatial office itself is enhanced. What one of the protagonists of the Council, Cardinal Garrone³⁴³ wrote about the chapter on the Synod of Bishops is fully confirmed: "*Not everything has been said about collegiality if the principle of Peter has not been stated. Not everything has been said about the Petrine primacy if nothing has been said about collegiality*"³⁴⁴.

Chapter IV

The Synod of Bishops and the Episcopal Collegiality in the strict sense

After having spoken of the Synod of Bishops as a privileged instrument at the service of collegiality and primacy, it remains for us to examine, in this final stage of our work, whether the Synod can be considered as a place for the re-exercise of the collegial power of the bishops over the universal Church. In other words, can we speak of collegial acts *stricto sensu* in regard to the decisions taken by the bishops participating in the Synod in union with the Supreme Pontiff? We shall analyse the positions of the various authors who have expressed themselves on this subject; then, taking as a basis the theological principles studied in the preceding chapters, we shall endeavour to find elements of a solution, looking at the Ecumenical Councils

I - THE SYNOD OF BISHOPS IS NOT A PERMANENT COUNCIL

The analogies between the Synod of Bishops and the Ecumenical Council are such that many would be tempted to equate this permanent institution, which brings together a number of bishops from all over the world at intervals, with an Ecumenical Council. true that the institution of the Synod is stable, as we have already seen, that is to say, it is destined to last, that it has become part of the Church's functioning organs, in the manner of the Ecumenical Councils, the general and provincial councils, the diocesan synods. how it was conceived in the

343 G. M. GARRONE, *The Church 1965-1972*, Paris, 1972, p. 96.

founding act, the *Mo tu proprio Apostolica sollicitudo*. It is not permanent

in its exercise, since the Synod meets only temporarily and occasionally³⁴⁴.

I - 1. Is the Synod of Bishops a Council in miniature?

Let us recall that Bishop Oddi had already expressed, even before the Second Vatican Council, the wish to see a council or an organism set up to play the role of a *reduced Council*:

For many years it has been lamented that the Church does not have, outside the Congregations, a permanent consultative body, *a kind of small Council* which includes participants (members of the hierarchy, members of the clergy - and possibly lay people?) from the whole Church and which meets periodically, if only once a year, to discuss major problems and to suggest possible new outlines of the Church's "policy". An organism which finally extends to the whole Church like the episcopal conferences which gather a part or the totality of the Hierarchy of a country, or like certain other organisms (CELAM for example) which extend their activity for the benefit of a whole continent³⁴⁵.

This organism desired by S. Oddi will find its realization in the Synod of Bishops, which is considered by some, if not by right then at least by fact, as a *small permanent Council*³⁴⁶. J. Ratzinger speaks of the Synod as a *permanent council in piccolo*³⁴⁷, which allow the Church to continue the momentum of the Second Vatican Council, so as to make what was sown during the conciliar assembly flourish

But given the absence of an adequate representation of the universal episcopate, as we have seen in Chapter III³⁴⁸, it is not possible to see in the Synod a kind of Ecumenical Council in miniature it should be remembered that primary and essential function the Synod is not to make decisions: we have seen in Chapter II

344 Cf. *Apostolica sollicitudo* I, in AAS 57 (1965), p. 776: "ad tempus acque ex occasione munere suo fungens".

345 S. ODDI, *Apostolic Internum in Egypt, AD, Series I, Voi. II, Pars V*, pp. 393-394.

346 "Ein ständiges Konzil im kleinen" (R. WEYGAND, *ÄNDERUNG der Kirchenverfassung durch das II Vatikanische Konzil*, in *Archiv für katholisches Kirchenrecht* 135 [1966], p. 404)

347 J. RATZINGER, *Istituzione di un Sinodo dei Vescovi*, in *Problemi e Risultati del Concilio Vaticano II*, Brescia, 1967, p. 100. "Se, in base alla composizione dei suoi membri ed all'idea che si esprime nel suo nome, dobbiamo definire il Sinodo Episcopale come un permanente Concilio in piccolo, la sua istituzione in questa situazione significa la certezza che il Concilio continuerà anche dopo la sua conclusione ufficiale, in quanto appartiene alla vita ordinaria della Chiesa; And furthermore, that the Council will not be an episode, on which something else will happen soon, but through the "Sinodo", that which has been prepared in the days, which were so tempestuous, of the conciliatory sitting, will be brought to maturity".

348 See Chapter III, paragraph I - 3. 3.

that the function of the Synod is above all, *suapte natura*, consultative³⁴⁹. Eventually, and by way of exception, it may be given a deliberative power, but only the Pope so decides. This hypothesis has never been realized since its erection (1965). For this reason we agree with the statement of J. B. d'Onorio:

This governing council (the Synod) is not a "perpetual Council in miniature", nor is it a small parliament of high-ranking ecclesiastics representing the plurality of powers, charisms and situations of the Catholic Church. In fact, in the Council the bishops sit as legislators and speak in their own name, while in the Synod they act simply in the name of their respective conferences, but the votes express simply personal opinions"³⁵⁰.

the conclusion reached by an author like A. Marranzini, for whom the Synod is not, strictly speaking, a small Council, nor a permanent Ecumenical Council, because, as Paul VI pointed out, it does not have the composition, authority and objectives proper to such a Council³⁵¹.

A canonist like Fr. Huizing also recognizes that *in its present form the Synod is not a true and authentic representation of the Council*³⁵², but he does not exclude that the Synod of Bishops could one day take on the structure of a permanent Ecumenical Council: According to him, it would be sufficient that the representation of the episcopate be authentic, that the Pope be a part of the Synod, and that the decisions taken be made in a collegial manner³⁵³. While the simultaneous fulfilment of all these conditions poses no problem for the Ecumenical Council, it is not without serious difficulties with regard to a restricted assembly of bishops, destined to meet at intervals, according to the dispositions of

349 Cf. *Apostolica sollicitudo* II, in AAS 57 (1965), p. 776: "Ad Synodum Episcoporum *suapte natura* munus pertinet edocendi et consilia dandi".

350 J. B. D'ONORIO, *Le Pape et le gouvernement de l'Église*, Éditions Fleunis-Tardy, Paris, 1992, pp. 414-415.

351 A. MARRANZINI, *Sinodo dei Vescovi e Collegialità* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 116.

352 "In its actual form, the Synod is not a true and proper continuation of the Council. It is, in fact, a representation of the bishop as a whole, that is, of all the bishops united in one body with the Pope. The Synod, on the other hand, is a representation of all the bishops besides the Pope, even though he does not seem to be a part of him. Further development in this sense is not excluded. At the end of the prologue, the Pope himself says that the Synod, like every human institution, will in time be able to assume a more perfect form" (P. HUIZING, *An Example of Constitutionalism in the Church? The Synod of Bishops in Crisis of Power in the Church and its Resurrection*, Editrice A. Mondadori, Verona, 1969, pp. 225-226).

353 "Ma forse (il Papa) non esclude neanche che il Sinodo possa prendere un giorno la struttura di un **vero e proprio Concilio ecumenico permanente**, cioè di una rappresentanza dell'episcopato intero, di cui fa parte anche lo stesso Papa. However, because this is an Ecumenical Council, the personal presence of all the world's bishops is not absolutely necessary; it is necessary that those who truly represent the international episcopate; however, the participation of the Pope in the Council is absolutely necessary. Qualora il Papa entrasse nel Sinodo e le decisioni si prendessero in modo collegiale, **siveriferebbe resistenza di un Concilio Ecumenico permanente**, ossia del governo supremo collegiale sulla Chiesa" (P. HUIZING, *op. cit.*, p. 226).

the Roman Pontiff³⁵⁴ .

1 - The Synod of Bishops differs essentially from the Ecumenical Council

Let us note at the outset that on the institutional level the Ecumenical Council is an institution that actualizes a reality of divine right (the collegial participation of the bishops in the *potestas suprema* over the universal Church), while the Synod is an institution of purely ecclesiastical right. As for its nature and composition, the Council is immutable, since it is the gathering of the College of Bishops; the Synod, on the other hand, can undergo changes in its constitution, its form, its composition, if the Pope so decides³⁵⁵ .

In fact, in a very general way, theologians agree in recognizing an essential difference between these two ecclesiastical instances, based on the one hand on the voluntarily very limited numerical participation of the bishops in the Synod and on the other hand on the active and free participation of *all the members of the Episcopate* in an Ecumenical Council (even though historically, as we shall see later, only a small number of bishops participated in certain councils). In the Ecumenical Council, the bishops are really and physically present, so that generally one does not speak of the representation of the episcopate at the conciliar assemblies, but of the effective presence of the College of Bishops. At the Synod, only a few bishops are physically assembled; the world episcopate is not present as such; it is *only represented*³⁵⁶ , according to the type of representation signified by the expression *totius catholici Episcopatus partes agens*, used in the *Motu proprio Apostolica sollicitudo*, or in the decree *Christus Dominus*. In other words, the Ecumenical Council, *natura sua*, is the plenary meeting of the universal episcopate, while the Synod is a partial meeting of certain members of the *Corpus - Episcoporum*; what makes G. Alberigo right in saying that the Synod of Bishops is not and can never be a permanent Council

"I would like to clear the way right away for a very delicate question, and in a sense the most delicate of all. There is no *permanent Council*, nor can there be, and it would be extremely dangerous to start talking about *permanent Council*. The Council, in fact, is one and the same. *It is the plenary meeting of the universal Episcopate*. It is a permanent tradition in the Church, which

354 We shall have occasion to speak again in our last paragraph about the possibilities of a strictly collegial act on the occasion of a synodal assembly, but we can already foresee the complexity of the problem, for everything will depend on the representative character which the Synod enjoys in relation to the College.

355 The *Motu proprio Apostolica sollicitudo* foresees that the Synod, like every human institution, can be improved: *perfectiorem usque formam assequi poterit (Apostolica Sollicitudo, in AAS 57 [1965], p. 776)*.

356 We have already spoken in Chapter III, § I, about the debate on the representativeness of the Synod of Bishops and we have shown, with references to the Magisterium of the Church, that the representation of the Catholic episcopate in the Synod is a representation in the broad sense or a moral representation of the world episcopate, which has no juridical value as such, and does not bind each of the diocesan bishops.

it would be very serious to call into question, even if only by way of hypothesis, since in the Council we find the realization of an absolutely unique charismatic and human situation which cannot be reproduced. Any expedient, any mechanism, any discovery in this direction is extremely dangerous"³⁵⁷.

G. Alberigo, on the other hand, poses the real question, unfortunately without resolving it, that of the legitimacy of representation³⁵⁸, which remains the crux of the problem. As we have already said in the previous chapter³⁵⁹, this author inclines to see in the Synod of Bishops only a sign of the participation of the College of Bishops in the government of the Church and not a collegial form of the exercise of the *munus* proper to the College of Bishops³⁶⁰.

The Synod differs essentially from the Council, say also W. Bertrams, Cardinal Wojtyla and A. Marranzini, because only the Council is a plenary participation of the episcopate. The Synod of Bishops does not take the place of a Council³⁶¹. On the theological level, there is no equivalence between these two institutions.

Thus for W. Bertrams, the Synod of Bishops, under the aspect of *potestas*[^] has a resemblance with the Council, in so far as it exercises an activity ordered to the universal Church; but it differs from the Council, in so far as in the Synod the supreme *potestas* is not exercised collegially, for it is not the College as a whole that acts³⁶².

For Cardinal Wojtyla, only the Ecumenical Council is a supreme achievement of collegiality:

same time it should be emphasized that the Synod differs essentially from the Council. The Council, in fact, represents the realization of collegiality at the highest level (...). During the Council all those who belong to the Episcopal Body, under the direction of the Successor of Peter, decide on the problems of the whole Church. In the Synod we do not find such a full realization of collegiality. The Synod does not replace the Council and cannot assume its functions"³⁶³.

357 G. ALBERIGO, *Piramide di potere e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*. Editrice A. Mondadori, Verona, 1969, p. 152.

358 "This does not obviously contradict the possibility of a universal bishop's presence, provided that it is a representation and not a surrogate. The basic problem of the representation of the Episcopal Collegewhich some people have already begun to raise, is that of the legitimacy of a true and proper representation of the Episcopal College"(op. cit., p. 152).

359 See Chapter III, paragraph II - 2. 3.

360 ♦ Perciò chi volesse sostenere la natura propriamente collegiale del Sinodo dei Vescovi entrerebbe necessariamente in contraddizione con il paragrafo 22 della costituzione dogmatica *Lumen Gentium*" (G. ALBERIGO, op. cit., pp. 145-146).

361 The editorial of the magazine *Renovatio* rightly refuses to accept any substitution of the Council by the synodal institution: "The important thing is that public opinion should not think that the Synod of Bishops replaces the College of Bishops or the Ecumenical Council. The consequences of such an error would be grave" (*RENOVATIO* II/3 [1967], *Editorial*, p. 348).

362 W. BERTRAMS, *Commentarium in Litteras Apostólicas* (*¡Apostolica sollicitudo* "in *Periodica* 55 (1966), p. 126.

363 K. WOJTYLA, *Sul Sinodo dei Vescovi*, article published on March 5, 1972 in *Tygodnik Powszechny* 26 (1972) no. 20, in G. SARAF (a cura di), *Karol Wojtyla e il Sinodo dei Vescovi*, Città del

To this first difference between the two institutions, based on the complete or partial presence of the College of Bishops, is added a second. We recall that in Chapter II it was shown that the exceptionally deliberative function of the Synod of Bishops allows it to exercise a power which does not belong to it in its own right, but which is delegated to it by the Supreme Pontiff, when the latter deems it useful³⁶⁴. On the other hand, the Ecumenical Council has its own deliberative power which is not delegated to it. G. Capocasa emphasizes this difference:

In the Ecumenical Council there is a true exercise of collegiality, because the members of the Council possess a true and proper deliberative power, which is not conferred or delegated by the Pope, even though it must be exercised in his communion, whereas in the Synod the power exercised is of a consultative nature. Reason is it absolutely improper to speak of the Synod of Bishops as *a small Ecumenical Council*, and therefore to say that the Synod realizes the exercise of episcopal collegiality³⁶⁵.

I - 3 The Synod of Bishops is an image of the Ecumenical Council

The many similarities between the two institutions, the episcopal character of the members of each, international origin of the participants, the many similarities in the mode of operation, the procedure of deliberation and the system of voting, all these elements, together with the more restricted character of a synodal assembly, make one think of a reduction of the conciliar institution. Having taken care to point out the essential differences between the two institutions, thus avoiding any danger of confusion, it may be said that the Synod is in some way the image of the Ecumenical Council, knowing that the image is not the reality. This is how Paul VI expressed himself on the occasion of the opening of the first assembly

Vaticano 1980, pp. 307-308

A. Marranzini is content to repeat the opinion of Cardinal Wojtyła: "This is true not only of the Synod in its present structure, but also of any other possible model. This is why Cardinal Wojtyła was able to state without hesitation that, since the Synod does not fully realize episcopal collegiality, *it does not replace the Council and cannot assume its functions*. It is not only reasons of a juridical order that oppose the realization of episcopal collegiality (*stricto sensu*), but reasons of a theological order, as we have already mentioned" (*Principi teologici e il sinodo straordinario*, in *Rassegna di Teologia* 10 [1969], p. 854).

³⁶⁴ See Chapter II, § III - 2.

³⁶⁵ G. CAPOCASA, *Il Sinodo dei Vescovi istituito dal Motu Proprio "Apostolica - sollicitudo"*, Dissertatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe, Rome, 1975, p. 71. The author then adds: "Moreover, its composition, with members who are not all bishops, makes us understand how this institution is concerned above all with the knowledge and study of problems, so that the Supreme Authority can then deliberate. This is also a reason why the Synod cannot be identified with the Ecumenical Council, which in turn is also the supreme authority" (*op. cit.*, p. 7).

G. Alberigo also underlines this difference: "Esso (il Sinodo) non è una manifestazione in senso proprio della collegialità, sia perché ha una funzione consultiva, sia perché quando ha una capacità deliberante essa non gli deriva da Dio mediante la consacrazione episcopale dei suoi membri, ma dal Papa" (G. ALBERIGO, *op. cit.*, p. 145)

of the Synod of Bishops in 1967:

Although the Synod of Bishops cannot be considered an Ecumenical Council, since it has neither the composition, nor the authority, nor the objectives proper to it, it reproduces, in some way, its image; it reflects its spirit and method and, if it pleases God, it obtains from it the proper charisms of wisdom and charity"³⁶⁶.

The use of the word "image", which seems to suit the Synod perfectly, does not eliminate the fundamental differences between the two institutions on the ontological level, and consequently, as G. Capocasa again points out, the deliberations and decisions of the two institutions will not be of the same nature:

"The Synod of Bishops is a similitude, an image of the Ecumenical Council. Indeed, the Ecumenical Council exercises the supreme *potestas* conferred by Christ over the whole Church, *cum et sub Petro*. All the bishops, successors of the Apostles participate in it. The decisions and deliberations which take place in the formally or equivalently assembled Council, through the exercise of its proper charism, cannot be identified with decisions and deliberations of the Bishops present in the Synod alone"³⁶⁷.

II - THE SYNOD OF BISHOPS IS NOT IDENTIFIABLE WITH THE ENDEMOUSSA SYNOD OF THE EASTERN CHURCHES

We have already spoken of the Synod of the Eastern Churches, commonly called the *Synod endemoussa*³⁶⁸; this has its juridical origin in the canons of the Councils of Nicaea, Antioch and Constantinople³⁶⁹. The Fathers of Chalcedon confirmed the canonicity of this institution³⁷⁰.

According to Joseph Ratzinger³⁷¹, the term *synod* goes back to the constitutional structure of the early Church; at that time the later concept of a *monarchical* and isolated *Episcopate* was not known, but the bishop was on the one hand united with his priests, and on the other hand united with his colleagues in the episcopate by means of regular Synods. "In the Byzantium of the 5th century,

366 PAUL VI, *Allocation for the first meeting of the Synod of Bishops*, 30 September 1967 in *Catholic Documentation* 1503 (1967), col. 1737.

367 G. CAPOCASA, *Il Sinodo dei Vescovi istituito dal Motu " Apostolica sollicitudo"*, *Dissenatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe*, Roma, 1975, pp. 84-85

368 See Chapter I, § II - 3.

369 For a detailed study of the *Endemusan Synod* and its origins, one can refer to the works or articles of J. HAJJAR: *The Permanent Synod in the Byzantine Church from the Origins to the Eleventh Century*, Pont. Institutum Orientalium Studiorum, Rome, 1962; *Synode permanent et collégialité épiscopale datis l'Église byzantine au premier millénaire*, in *La Collégialité épiscopale, histoire et théologie*, Coll. *Unam Sanctam* 52, Les Éditions du Cerf, Paris, 1965, pp. 151-166.

370 Cf. J. HAJJAR, *Le Synode permanent dans l'Église byzantine des origines au XI^e siècle*, Pont. Institutum Orientalium Studiorum, Rome, 1962, p. 51.

371 J. RATZINGER, *Istituzione di un Sinodo dei Vescovi*, in *Problemi e Risultati del Concilio Vaticano II*, Brescia, 1967, p. 99.

this model had been adopted at the level of the patriarchate, and it was from this that the institution of the *permanent synod* developed. By means of this institution, the Patriarch governs his territory not in a *monarchical* but in a *synodal way*, that is, in union with a group of bishops, who together form, without interruption, a kind of small Council; thus, in the patriarchal model, the monarchical principle is inserted into the collegial principle.

There is an analogy between the Synod of Bishops and the Synod of Bishops of the Universal Church, instituted by Paul VI, as V. Ferrara says:

"It is quite clear that there is a very strong analogy between the Latin Synod (Synod of Bishops) and the *Endemoussa Synod*, but not a true identity. First of all, the Latin Synod is not an organ of the Roman Curia and is not permanent in its functioning, even if it is stable and permanent as an institution. The *Endemoussa Synod*, on the other hand, is an organ of the Patriarchal Curia and a permanent organ in its functioning. The Latin Synod is truly representative of the Episcopal Body and is in fact a visible representation of the episcopate. The same cannot be said of the *Endemoussa Synod*, in which only one member is freely elected by the bishops. And above all the Latin Synod is by its nature consultative, while the *Endemoussa Synod* is according to law a deliberative body"³⁷².

In fact, following the reform of the legislation for the Eastern Rite Catholic Churches, the structure of the Permanent Synod has been modified so as to bring it closer to that of the Autocephalous Eastern Churches. Thus, according to the new law, three of the members of the Permanent Synod would be elected for five years by the bishops of the Patriarchate, while the fourth would be chosen by the Patriarch³⁷³.

It should be noted that the distinction between the Patriarch and the Patriarchal Synod does not include a dissociation, much less a superiority. This was true of the Synod of the Byzantine Church; it remains true of the Permanent Synod of the Oriental Churches united in Rome³⁷⁴. In this synod, the authority of the collegially gathered bishops is not diminished or supplanted by that of the Patriarch. The Patriarch does not personify his synod, although he is its appointed representative; he is not superior to it, although he presides over it; but he cannot do without it, for then he would lose the canonical and historical basis of his *extraterritorial* or ecumenical authority (for the Synod of the Church of Constantinople). According

372 V. FERRARA, *H Sinodo dei Vescovi tra ipotesi e realtà*, in *Apollinaris* 52 (1969), p. 554.

373 According to the Code of Canon Law of the Eastern Churches published in 1990 (CCEO [1990], can. 115), it is provided for:

" I. Synodus permanens constat ex Patriarcha et quattuor Episcopis ad quinquenniū designatis.

2. Horum Episcoporum tres a Synodo Episcoporum Ecclesiae patriarchalis eliguntur, inter quos saltem duo ex Episcopis eparchialibus esse debent, unus vero a Patriarcha nominatur

3. Eodem tempore ac modo designentur quattuor, quatenus fieri potest, Episcopi, qui ex ordine a Synodo Episcoporum Ecclesiae patriarchalis determinato Synodi permanentis membra impedita alternatim substituant

374 For more information on this theme, see the well-documented book: P. PAUATH, *Local Episcopal Bodies in East and West*, Oriental Institute of Religious Studies India, Vadavathoor Publication, Kottayam, 1997, pp. 93- 239.

to Hajar, the Byzantine patriarchate is unthinkable without the Synod; without it the patriarchate would be legally reduced to the episcopal dimensions common in Christendom, that of a bishopric or metropolis. In the separate Eastern Churches, the effective government is really in the hands of the synodal assembly: the president (the Patriarch) is the *primus inter pares*.

On the other hand, the Synod of Bishops of the Universal Church cannot claim to have a right of review over the Pope, who presides over it or has it presided over by designated Cardinals, nor can it even take decisions in the place of the Pope which concern the whole Church. It acts only under the dependence of the Pope, to whom it remains subject, as the *Motu proprio* recalls: *Synodus Episcoporum directe et immediate subest auctoritati Romani Pontificis, (...)*³⁷⁵. Its function is, *natura sua*, consultative.

ni - CAN THE SYNOD OF BISHOPS BE THE SUBJECT OF AN ACT OF COLLEGIALITY IN THE STRICT SENSE? POSITIONS OF THE AUTHORS

IU - 1. The collegial act in the strict sense, result the indivisibility of the College of Bishops

III - 1. The Indivisibility of the College of Bishops

We have seen in the first part of our work that *the united and indivisible character* of the Episcopal Body has its source in the very sacramentality of the episcopate³⁷⁶.

Indeed, sacramental ordination transmits to the bishops the content of the apostolic succession, which is a participation in the apostolic ministry, a reality originally existing *in solidum* in the Apostolic College. The apostolic ministry is rooted in the one authority of Christ and is therefore, by its nature, one and indivisible. This authority was bequeathed by Christ to the College of Apostles and subsequently transmitted to the bishops³⁷⁷. The unity of the apostolic ministry entails the unity of those who have it. This doctrine was expounded by St. Cyprian in a well-known text, *De Ecclesia catholice unitate*. The bishop of Carthage, starting from the unity of the Church, affirms the fundamental unity of episcopal power and its indivision³⁷⁸. In one of his letters, he reminds us that *just as the*

³⁷⁵ *Apostolica Sollicitudo* III, in AAS 57 (1965), p. 777.

³⁷⁶ Cf. Prima Pars, Cap IV, §VII.

³⁷⁷ In fact, this authority is transmitted to each individual bishop, but as a gift belonging to the entire College of Bishops, and necessarily exercised in collegial communion.

³⁷⁸ "Quam unitatem tenere firmiter et vindicare debemus, maxime episcopi, qui in Ecclesia praesidimus ut episcopatum quoque ipsum unum atque indivisum probemus. **Episcopatus unus est** cujus a singulis in solidum pars tenetur..." (SAINT CYPRIAN, *De Ecclesie catholice unitate*, cap. 5, PL 4, 516).

In another writing (SAINT CYPRIAN, *Epistola* 55, 24, in *Lettres de Cyprien*, Éditions *Les Belles Lettres*, Tome II, p.147), St. Cyprian recalls, with regard to the schismatic Novatian, *that he can claim neither the power nor the dignity of the episcopate, the one who did not want to keep Punite of this*

*Church founded by Jesus Christ is one, despite the dispersion of its members throughout the world, so the episcopate is unique despite the multiplicity of bishops, because they are united by concord*³⁷⁹.

The Constitution *Lumen Gentium*, repeating almost word for word the terms of the Constitution *Pastor aeternus*³¹ of the First Vatican Council, also affirms this unity and indivisibility of the episcopate: *but in order that the episcopate itself might be one and undivided, he placed St. Peter at the head of the other apostles, instituting in his person a perpetual and visible principle and foundation of unity of faith and communion*³³.

This character of unity and indivisibility of the Episcopal Body³⁸⁰, which includes the Roman Pontiff, as a *perpetual and visible principle and foundation*, is again stated in the *Motu proprio Apostolos suos*³⁸¹. It is this ontological unity of the episcopate which is in turn the principle of the very unity of the Church, as the letter *Communione notio* recalls:

"Indeed, the unity of the Church is also rooted in the unity of the episcopate (...). The unity of the episcopate involves the existence of a bishop who is the Head of the *Body or College of Bishops*, who is the Roman Pontiff. This unity of the episcopate is perpetuated down the centuries through the apostolic succession, and it is also foundation of Church's identity in all times with the Church built by Christ on Peter and the other Apostles"³⁸².

III - 1. 2. The collegial act in the strict sense is a common action of the whole College

The indivisible character of the episcopate shines forth especially when the bishops act in common accord in union with their Head, exercising over the universal Church the power proper to the College. A collegial act in the strict sense, which is a participation in the one power of jurisdiction over the Church, belongs to the Episcopal Body as a whole³⁸³; it has its source in the constitutive unity of the

same episcopate nor concord ("Episcopi nec potestate potest habere nec honorem qui episcopatum nec unitatem voluit tenere nec pacem")

379 SAINT CYPRIAN, *Epistola* 55, 24, in *Lettres de Cyprien*, Éditions *Les Belles Lettres*, tome II, p. 147.

380 As J. R. Villar says, "unity, comunione, or **collegiality** belong to the essence of the episcopate" (J. R. VIUJRR, *Il ministero episcopale nella "Communio Ecclesiarum"*, in *I vescovi e il loro ministero* [a cura di P. Goyret], Libreria Editrice Vaticana, Roma, 2000, p. 80).

381 "Apart from the power of divine institution which the bishop has in his particular Church, **the awareness of being part of an undivided body (Corpus indivisum)**, has led bishops throughout history to employ in the accomplishment of their mission instruments, organisms or means of communication which manifest their communion and solicitude for all the Churches and which continue the very life of the College of Apostles" (*Apostolos suos* 3a).

Cf. also *Apostolos suos* 8b: "The unity of the episcopate is one of the constitutive elements of the unity of the Church"

41.CN12.

383 "Episcopal collegiality, in the proper or strict sense, belongs only to the **entire College of Bishops**, which, as a theological subject, is indivisible" (JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 [1990], pp. 104-105).

College of Bishops, that is, in its indivisibility. *Each Bishop is collegially "in union with his Head, the Roman Pontiff, and never without his Head, the subject of a supreme and plenary power over the whole Church"*³⁸⁴. As the subject of supreme power, the College of Bishops must be understood in its totality, that is, as an indivisible whole. It is therefore impossible to imagine any group of bishops exercising this supreme power as the property of the Roman Pontiff alone or of the entire College.

As *Apostolos suos* says, the supreme power of the College over the universal Church can only be exercised *collegially*.

"The Body of Bishops can only exercise **collegially** the supreme power which it possesses over the whole Church, either solemnly when the Bishops are gathered in the Ecumenical Council, or when they are dispersed throughout the world, as long as the Roman Pontiff calls them to a collegial act or freely accepts their **common action**"³⁸⁵.

In this quotation, it seems important to us to underline the terms *collegially* and *common action*, which translate the reality of the collegial act in the strict sense. Without the collegial participation of all members of the College, it is impossible to imagine a common action that commits the whole College of Bishops.

From this we draw the following conclusion: the collegial act in the strict sense is a *common action of the whole College*. It is a consensus of the universal episcopate united at its head, the Pope, on an action to be taken. It is not the action of a few, whether an active minority or a more or less representative group, but the action of the whole College insofar as its members are involved and act *in solidum*. - If the unity and indivisibility of the College are not apparent in the action taken, one cannot speak of collegial action in the strict sense, and if the Supreme Pontiff's opinion or deliberation of only one part of the College, one would speak rather of an exercise of primatial power. The Bishops exercise their supreme power over the Church only *collegially*, that is to say, as united among themselves in the whole College, *cum et sub Petro*.

III - I. 3 Modalities of the Collective Pact

As we have already shown in the first part³⁸⁶, the College of Bishops can make a collegial act in two ways, either according to the conciliar modality or according to the extra-conciliar modality.

- Conciliar modality:

The unity and indivisibility of the episcopate are manifest in the *Ecumenical Council*, for all the members of the Episcopal Body, or at least all those who were able to respond to the convocation, are physically present and sitting together in one place. A common action on their part, insofar as it obtains the approval of the Roman Pontiff, is a sign and consequence of the indivisible character of the College.

384 *Apostolos suos* 9a.

385 *Apostolos suos* 9b. The idea is repeated in paragraph 12b of the same document: "(the bishops) can only act for the whole Church **collegially**".

386 Cf. *Prima pars*, Cap. IV, § IX - 2. 2. 4.

and will have the value of a collegial act in the strict sense

- Extra-conciliar modality :

We recall that the Constitution *Lumen Gentium* envisaged the possibility of extra-conciliar collegial acts:

"Collegial power may be exercised in union with the pope by the bishops residing on the face of the earth, provided that the head of the college calls them to act collegially, or at least gives this common action of the scattered bishops his approval or free acceptance so as to make it a true collegial act"³⁸⁷

When the bishops are dispersed throughout the world, the indivisibility of the Episcopal Body remains, but the common character of the action will be more difficult to perceive, since the physical presence of the bishops in one place is lacking. In order to establish a broad consensus of the episcopate regarding the action decided upon, it would be necessary to collect the testimonies of all the bishops of the College (since, as we have already seen, testimony is the fundamental element of the bishop's mission³⁸⁸). If the testimonies collected are such that it can be considered that the action taken is the result or reflection of a *consensus* of the universal episcopate united to its Head, the collegial character of their approach cannot be questioned. But the difficulty lies in the correct assessment of the participation of the episcopate in the action undertaken, or if one prefers, in the evaluation of the *common* character (in the consensual sense of the term) of this action. It is usually relatively easy to assess the role played by the Roman Pontiff and to note his formal approval or degree of adherence to the action; but the active role or degree of approval of the many bishops belonging to the College may be more difficult to assess.

III - 2 Opinions of the authors on extra-conciliar collegiality in the Synod of Bishops

The question that concerns us is whether the Synod of Bishops, which is not an Ecumenical Council and does not possess the prerogatives of one, can occasionally be a place where a moral consensus or a common witness of all the bishops scattered throughout the world is manifested, which would amount to an extra-conciliar collegial act. To this question the authors give very different answers. We will classify them into three distinct categories:

- Those who consider the Synod of Bishops as a regular place of episcopal collegiality in the strict sense.

387 LG 22b.

388 Cf. Cap. II, § II - 1. As E. Corecco also says, "È affermazione corrente il dire che il vescovo rappresenta la fede dei membri della sua Chiesa particolare, per esempio al Concilio Ecumenico. Only the testimony of the vestryman in relation to his diocese has the last vincenzian value, that is, legal value, with the added value of **ad deliberative** vote, in the same way as the Episcopal College or (E. CORECCO, *Parlamento ecclesiale o diacono sinodale*) in *Communio* 1 [1972], p. 43).

- Those who maintain that the Synod of Bishops cannot and could never be the place for a collegial act in the strict sense.

- Finally, those who perceive the Synod of Bishops as being in some cases the place for a collegial act in the strict sense

We propose to examine each of these views in light of the principles of collegiality set out above, and then to propose our solution.

III - 2 - 1 First opinion: the Synod of Bishops is a regular place of episcopal collegiality in the strict sense

For example, C. De Clercq, after quoting the passage from LG 22, which refers to the collegial power exercised by bishops scattered throughout the world, sees the creation of the Synod of Bishops by Pope Paul VI as a response to a widespread aspiration among bishops; many of them wanted a collegial exercise of supreme power by the scattered episcopate:

"Many bishops desired such a call, and the Supreme Pontiff Paul VI, responding to their wish, (...) proceeded to erect the Synod of Bishops for the universal Church"³⁸⁹. The author who argues most explicitly and strongly in favour of a regular exercise of collegiality in the strict sense by the Synod of Bishops is, without doubt, the Dutch theologian Schillebeeckx. It is worth quoting him:

"We can speak now of a *strictly collegial act*, although not a conciliar one, whenever the Pope accepts the advice or decisions of the Synod. And so the Synod of Bishops does not constitute, as some thought it should be interpreted, an evolution towards more frequent Ecumenical Councils, but rather a step forward towards the recognition that collegiality is not only a periodic exercise, or one at intervals, either solemn or not solemn, but a permanent, dynamic form, always at work, both in the universal Church and in the particular Churches, in which the universal Church is realized"³⁹⁰.

This position contains the theological presupposition of a real and ontological representation of the College of Bishops by the Synod, so that any advice or decision of the Synod of Bishops, endorsed by the Pope, would be evaluated as an act of collegiality in the strict sense. The Dutch theologian does not get lost in the distinctions between this or that synodal assembly, nor between the various roles, consultative or deliberative, that the Synod eventually called upon to play. His judgment is quite general and systematic. It is difficult to see how such a position can be reconciled with the *Nota explicativa praevia* of the Constitution *Lumen Gentium*, which specifies that the College of Bishops is not always in full exercise, and that it acts only at intervals in a strictly collegial act³⁹¹. For this reason we

389 C. DE CLERCQ, *de Synodo Episcoporum*, in *Apollinaris* 38 (1965), p. 212.

390 E. SCHILLEBEECKX, *La conciliarità essenziale della Chiesa e il Sinodo dei Vescovi, Crisi della fede e comunità locale, in Crisi del Potere nella Chiesa e risveglio comunitario (Crisis of power in the Church and community risk)*, Idoc Documenti nuovi, Ed. Mondadori, Verona 1969, pp. 204-205.

391 "(Collegium) non semper est in **actu pieno**, immo non nisi per intervalla actu stricte collegialiter agit" (*NEP* § 4).

adhere to the judgment of A. Antón:

I We cannot share the theological position of E. Schillebeeckx, who would tend to see the Synod of Bishops not only as kind of Council, but rather as a permanent conciliarity"³⁹².

It would seem that Cardinal Wojtyła, in an article written in 1972 for the review *Tygodnik Powszechny*, expressed an opinion rather along the lines of E. Schillebeeckx, when he stated that he recognized in the Synod an irreplaceable form for the exercise of full and supreme power over the whole Church. According to him, the synodal communion realizes this exercise of supreme and collegial *potestas* over the universal Church. However, the view expressed is not as radical as that of Father Schillebeeckx, since Karol Wojtyła does not speak of a permanent form of episcopal collegiality:

However, this Synod, with its special rules and its particular work, is an irreplaceable form, *in our time*, for explaining the full and supreme power over the whole Church. The exercise of this power in the case of Bishops scattered throughout the world, which is the ordinary case for Bishops who have specific tasks to fulfill in local Churches, requires from time to time a complement through a common act, which is the Synod of Bishops. Synodal communion enables the whole College, under the guidance of the Successor of Peter, to fruitfully realize that full and supreme *potestas* over the whole Church, in which the Bishops participate; especially when it is a question of questions which are or should be the object of particular solicitude in the Magisterium and in pastoral ministry"³⁹³.

Let us note that the position of Schillebeeckx is perfectly coherent with the theological opinion according to which there would be only one subject of supreme power over the universal Church, namely the College of Bishops (a thesis supported by K. Rahner) According to this theory, which we have already discussed in the first part of our work³⁹⁴, primatial power is seen only as an exercise of collegial power, that is, as an expression of the power of the College of Bishops, with the Pope always acting as head of the College. Under these conditions it is clear that a decision taken by the Synod of Bishops and ratified by the Pope is in fact a collegial decision; the Synod of Bishops is then naturally a usual place of collegial acts in the strict sense.

III - 2.2 *Second opinion: there are never collegiate acts strictly speaking to the Synod of Bishops*

392 A. ANTÓN, *ibid.*, pp. 95.

393 K. WOJTYŁA, *Sul Sinodo dei Vescovi* article published on March 5, 1972 in *Tygodnik Powszechny* 26 (1972) no. 20, in G. SARAF (a cura di), *Karol Wojtyła e il Sinodo dei Vescovi*, Città del Vaticano 1980, p. 309 true, as we said in Chapter II, that on the theological level the distinction between consultative and deliberative suffrage in the Synod does not have much impact, but this does not mean that the Synod is an organ of collegiality in the strict sense of the word, which concretely actualizes the full, active and collegial participation of the whole episcopate in the government of the Church, in union with the Pope

394 Cf. Part I, Chapter I, § I: The College of Bishops as the Sole Subject of the Supreme Power of the Church. We have called this thesis the integrally collegial thesis

According to another view, it is not possible to find an adequate representation of the College of Bishops in the Synod which would allow it to deliberate in the name of the world episcopate. Thus think W. Onclin, G. P. Milano, J. Johnson, P. Collela and A. G. Urru. According to them, strictly collegial acts are excluded in the Synod of Bishops.

W. Onclin, speaking as a representative of the Commission for Interpretation of the Code of Canon Law, rules out the possibility of collegial acts in the synodal assembly³⁹⁵.

According to A.G. Urru, since the Synod is not really representative of the College of Bishops, it should not be seen as the expression of a strictly collegial activity, but rather as an organism which receives its power by delegation from the Supreme Pontiff and remains directly subject to him³⁹⁶.

For G. P. Milano, the difference between the Ecumenical Council and the Synod of Bishops lies in the fact that the deliberative power belongs properly to the College of Bishops gathered under the presidency of the Pope, that is, to the Council, whereas the Synod can only occasionally receive a deliberative power, if the Pope deems it opportune to confer it, and it is up to the Pope to ratify the decision taken. Thus, according to him, the deliberative function eventually exercised by the Synod of Bishops, should the Pope propose to defer to the opinion of the bishops gathered there, is only a particular form of the exercise of primatial authority.

"As for the power of the Synod, which is usually called deliberative and which it eventually receives, in reality it is nothing more than a form of exercise of the Pope's personal power (of which the act of concluding the

³⁹⁵ As was said in the discussion of this definition, if the Synod of Bishops truly represented all the bishops, it would be like the Ecumenical Council and should have a deliberative function and thus its acts would be collegial. But this does not correspond to reality. The Synod of Bishops cannot be considered as a College of all Bishops; it is not an Ecumenical Council" (PON- nunciato CUMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Response of the Commission to a request of the General Secretariat of the Synod of Bishops*, 20 September 1983, in J. TOMKO, *il Sinodo dei Vescovi, Natura, Metodo, Prospective*, Libreria Editrice Vaticana, Roma, 1985, p. 180). We have already spoken of this response of the Pontifical Commission for the Revision of *Canon Law*, which refutes any juridical representation of the College of Bishops by the Synod, but accepts such representation on the theological level, in the sense that the Bishops of the Synod exercise their solicitude towards the Churches which they do not govern directly.

³⁹⁶ "U Sinodo dei Vescovi non si può considerare un'appendice del Collegio dei Vescovi, né un momento di attività dello stesso Collegio dei Vescovi in quanto tale, né una rappresentanza di esso in senso proprio. It is rather an organization that is indirectly subordinated to the authority of the Roman Pontiff, which, by the will of the Pontiff, represents all the bishops. Such representation, however, does not come into play in its own sense, as if the Holy Spirit could act on behalf of the Collegio dei Vescovi and have its own deliberative power. It is also a moral representation, in that the vassals chosen to participate in the Sinodo reflect the geographical composition of the inter-episcopate, but they do not have deliberative power, unless and until the Roman Pontiff delegates it in this sense.

In short, the power of the Sinodo dei Vescovi has its immediate and direct foundation, not in the episcopal ordinance and therefore in the episcopal collegiality in the broad sense, but only in the delegation of the Roman Pontiff" (A. G. URRU, *Istituti per l'esercizio della collegialità e del primato: il Concilio Ecumenico e il Sinodo dei Vescovi*, in *Monitor Eccl.* 115 [1990], pp. 579-580).

process is like the formal element). More precisely, in my opinion, in the -deliberative *potestas* of the Synod it is easy to see an act of self-limitation on the part of the Pope, who endeavours by a series of acts free from any constraint of necessity (...) to receive the proposals of the Synod, and gives them in the concluding phase of the procedure the character of a constraint *ad extra* (...).

"Such a provision, which at the time of the concession is purely virtual (...) only becomes truly actualized, that is to say, assumes its binding character, at the moment when the Pope intervenes by adhering to the synodal proposals (by the act of ratification, as defined in the regulations); and thus he conforms himself by a primatial act to the conclusions of the assembly"³⁹⁷.

For J. Johnson, too, the lack of representativeness of the Synod of Bishops prevents us from speaking of participation in the power of jurisdiction over the universal Church:

"Despite twenty years of experience, research and reflection, the meaning of the phrase *partes agens totius Catholici episcopatus* remains an open question. The position that has gained the widest support is that which sees the phrase as purely metaphorical. This is practically to deny the Synod any participation in the power of jurisdiction intrinsic to the College of Bishops, as brought to light at the Second Vatican Council"³⁹⁸.

It is true, and in this we agree with the authors³⁹⁹ whom we have just quoted, that in an ordinary and usual way one cannot speak of a real representation of the College of Bishops by the Synod, as we have seen in the preceding chapter⁴⁰⁰. We can only speak of a moral representation in the sense that the Synod reflects the geographical physiognomy and universal character of the episcopate and is a sign of the solicitude of the College of Bishops for the universal Church. The lack of real or ontological representation, since the Synod Fathers have not been delegated to act on behalf of the College they are supposed to represent, normally prevents

397 G. P. MILANO, *Forms and contents of consultative freedom in the Church, with particular reference to the Episcopal College* in *Ephemerides Iuris Canonici* 46/2-3 (1990), p. 306.

398 J. JOHNSON, *The Synod of Bishops: an exploration of its nature and function*, in *Studia Canonica* 20/2 (1986), p. 317.

Müller, for whom the Synod is only a partial realization of episcopal collegiality: "esso (il Sinodo) è solo una realizzazione parziale della collegialità episcopale al livello della Chiesa universale (...). This means that the Sinodo of the Vescovites is an organ of co-responsibility at the service of the primacy, but not an organ collegial service of the supreme power of the Church. In fact, the exercise of the supreme collegial power presupposes the participation of all the vassals who are in the gerarchical union" (H. MÜLLER, *Comunione ecclesiale e strutture di corresponsabilità*, in J. BEYER, G. FEUCIANI, H. MUIJÆR, *Comunione ecclesiale e strutture di corresponsabilità*, Pontificia Università Gregoriana, Roma, 1990, pp. 30-31).

399 To these authors we can add Arieta, who, in the present conditions of its functioning, absolutely excludes the possibility of collegial action in the strict sense, through the Synod of Bishops. Nevertheless, he theoretically concedes to the Pope the right to have recourse to a synodal meeting in order to carry out an extra-conciliar collegial act, but in this case he would have to change the structure of this organism, removing from it at least the members who do not have episcopal character (J. IARRIETA, *El Sinodo de los obispos*, Ediciones EUNSA, Pamplona, 1987, pp. 170-172).

400 See Cap. U, §I-3. 1.

them from taking a strictly collegial action, even when the Pope has conferred on them a deliberative power. The Synod of Bishops, even if the Pope grants it a deliberative function, is not equivalent to an Ecumenical Council. However, the possibility of a representation, real in the literal sense and not merely figurative, of the entire College cannot be categorically excluded, when the decision taken by the Synod in union with the Roman Pontiff corresponds exactly to the thought and determination of the College of Bishops as a whole. One should be able to speak in this particular case of an exercise of strict collegiality on the occasion of the Synod. We shall return to this.

For this reason, P. Colella's position seems excessive:

"In conclusion, even if one must firmly reject the opinion of those who see **in the Synod of Bishops a form of updating episcopal collegiality**, unless the very concept of collegiality is emptied or reduced to nothing, and even if one must remember that without a precise juridical form one cannot speak of an organic exercise of collegiality, it seems to us that its institution is useful and opportune"⁴⁰¹.

It remains for us to consider the third opinion, which does not exclude the possibility of a strictly collegial act on the occasion of the Synod of Bishops.

III - 2. 3, Third opinion: the Synod of Bishops can, in certain cases, be an instrument of collegiality in the strict sense

III - 2.3.1 Position of some authors

The representative character of the world episcopate, in some cases to be determined, allows the Synod of Bishops to be recognized as an expression of the episcopate dispersed throughout the world.

Thus G. Capocasa, in a nuanced judgment, evokes the possibility of strictly collegial acts on the part of the bishops gathered in Synod and speaking in the name of the whole College

"Now, as to whether the Synod of Bishops can exercise a strictly collegial action, conceded to the College, it is necessary to reflect on the representative character of the Synod in relation to the College of Bishops, and on the necessary consent part of the Pope, in order that there may be a collegial act of the Bishops, *stricto sensu*"⁴⁰².

For this author, there are certain cases in which the representation of the Synod is truly adequate and sufficient, to achieve the conditions of a collegial act

"As a result, a collegial decision may be taken without the whole College being present. Moreover, the College, **in certain determined cases** can transmit to its representatives, elected by it, the right to express its opinion.

401 P. COLELLA, *Brevi osservazioni sul Sinodo dei Vescovi*, in *Diritto ecclesiastico* 80 (1969), p. 366.

402 G. CAPOCASA, *H Sinodo dei Vescovi istituito dal Motu Proprio "Apostolica Sollicitudo"* Dissertatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe, Roma, 1975, p. 73.

Thus the acts of these representatives, since they are legitimate, are acts of the whole College, which in fact concretizes its action in the Synod (...).

"If the bishops gathered in Synod manifest the *votum* of their episcopal conference **on a given subject**, and through them the *votum* of the whole College of Bishops, and if this opinion is freely accepted by the Roman Pontiff as such, that is to say, as the opinion of the whole Catholic episcopate, nothing could be opposed to considering this decision of the bishops and of the Pope as a strictly collegial one"⁴⁰³.

We note that this author stresses the validity of the representative character of the Synod in certain cases, but does not examine the circumstances which make it possible to ascertain this validity; we therefore regret that he does not go further in his investigation.

For A. Fernandez, whom we have already quoted in relation to representation⁴⁰⁴, the Synod of Bishops performs acts of collegiality in the strict sense, whenever it is invited to act in a deliberative way:

However, the fact that the regulations provide that on certain occasions the Synod may have deliberative power is sufficient to affirm that in such circumstances the Synod will perform a strict act of collegiality, and its decisions ratified by the Pope will have universal value^{*405}.

We do not think that the deliberative faculty granted by the Roman Pontiff to the Synod is sufficient to transform it *ipso facto* into an organ of collegiality in the strict sense. The author, by affirming that *the Intercommunion of the Corpus Episcoporum is concretized in the Synodal Assembly, where the episcopal communion is synthesized in a limited number³ of bishops who represent it*⁴⁰⁶, does not establish the proof that, in each case, the representativeness of the Synod of Bishops is sufficient to allow it to be seen as a reflection of the intercommunion of the *Corpus Episcoporum*.

The International Theological Commission excludes the possibility of an exercise of episcopal collegiality *stricto sensu*, on the occasion of the Synod of Bishops, and sees in the Synod the place of a possible collegial act, as usually the case for the Ecumenical Council:

"In fact, the episcopal collegiality which succeeds the collegiality of the Apostles is universal and is understood, in relation to the whole Church, as the totality of the Episcopal Body in union with the Pope; conditions which are verified for the Ecumenical Council and which can be verified for the Synod of Bishops (*Christus Dominus* 5)"⁴⁰⁷.

403 G. CAPOCASA, *op. cit.*, pp. 74-76.

404 See Chapter II, § I - 3. 1.

405 A. FERNÁNDEZ, *El Sínodo de los obispos y la colegialidad episcopal en Scripta theologica* 1 (1969), p. 433. The author adds: "(...) Following the doctrine of *Lumen Gentium* 22 and the *Nota Explicativa Pravia*, it is difficult to maintain the simple assertion that the *Synodus Episcoporum*, as a collegial expression, is only a sign of collegiality and not an act of strict collegiality.

406 A. FERNÁNDEZ, *op. cit.* p. 433.

407 INTERNATIONAL THEOLOGICAL COMMISSION, *Selected Topics in Ecclesiology*, 8 October

The authors of this third opinion are content to state their assertions, but without succeeding in convincing us completely, for lack of a structured argument; we shall endeavour provide an additional response in the last paragraph

III - 2. 3. 2 *Special position of A. Anton*

The position of Father Anton deserves special attention; for him there is a possibility of an act of true and full collegiality in the Synod of Bishops if the representation is valid and if all the bishops are involved in the decision, the conditions are fulfilled:

"It should not be forgotten, moreover, that if it is natural for any college, and therefore also for the College of Bishops, to be able to issue strictly collegial acts only in virtue of a **consensus common to the whole College**, it does not follow that it is necessary to bring the whole College together in order to make a collegial decision. This possibility can find its application in the Synod of Bishops. In this case one could speak of a true and legitimate **representation** of the College of Bishops and its acts in **specific circumstances** would be in the strict sense **acts of the whole College**"⁴⁰⁸

"It is true, on the one hand, that for a collegial action of the bishops *stricto sensu*, the **College as a whole** must take part in the act, which seems possible in **uncertain specific cases**, given the great flexibility of the present means of communication. On the other hand, any collegial action of the Bishops *stricto sensu* must include the consent of the Supreme Pastor of the Church, who has given it, nevertheless, in the course of the history of the Church, different forms, from the express invitation of the Bishops to make a collegial act, to the free and simple reception of the **United Faction of Bishops**"⁴⁰⁹.

We have purposely underlined (i.e. bolded) the following expressions: Consensus common to the whole College, representation, College as a whole, acts of the whole College, united action of the bishops. In fact, we find in them the elements that define the collegial act in the strict sense, which we spoke of in

1985, in *Catholic Documentation* 1909 (1986), pp. 62 & seq.

"(EXTRAORDINARY GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS [1985], *Final Report of 7 December 1985*, II, C, § 4, in *Catholic Documentation* 1909 [1986], p. 40).

408 À. ANTÓN, *Episcoporum Synodus: Partes agens totius catholici Episcopatus*, in *Periodica di re Morale, Canonica, Liturgica* 75 (1968), p. 518. This quotation partially repeats the one we have already reported in the previous chapter, but its importance deserves to be repeated. Cf. also the articles by the same author: A. ANTON, *Sinodo e collegialità extra-conciliare dei Vescovi*, in V. FAGIOLO & G. CONCETTI, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, pp. 71-72, and À. ANTÓN, *la Collegialità nel Sinodo dei Vescovi* in J. TOMKO, *17 Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 100.

409 A. ANTÓN, *Episcoporum Synodus: Partes agens totius catholici Episcopatus*, in *Periodica di re Morale, Canonica, Liturgica* 75 (1968), p. 527. Father Antón repeats his argument almost word for word in the article: *La Collegialità nel Sinodo dei Vescovi* in J. TOMKO, *op. cit.*, p. 100.

paragraph III - 1 of this chapter, when we showed that a strictly collegial act is an act of the whole College of Bishops

The theme of *representation* is also addressed, and it appears to be the essential element on which the whole theology of the Synod of Bishops depends.

Á. Antón, in another article, is even more precise. According to him, when the bishops gathered in Synod express the vote of their episcopal conferences and through it, of the whole College of Bishops, on a precise point, and if their opinion is indeed the expression of a consensus of the Pope and of the whole College of Bishops (*quando vi sia il necessario consenso del supremo pastore e di tutto il Collegio dei Hscovi*), there is nothing to oppose considering this decision of the bishops and of the Pope to be a truly collegial one:⁴¹⁰ . However, he continues to affirm that, in general, in the present state of affairs, the function of the Synod is rather consultative, and therefore an act of collegiality in the strict sense would be exceptional.

Finally, Á. Antón affirms his disagreement with those who do not recognize the sacramental ontological foundation of the episcopate, and reduce the exercise of the deliberative function to the sphere of the Petrine primacy:

"In spite of everything, it seems impossible to support the judgment expressed by J. Neumann, who, either because he ignored the sacramental ontological foundation of the episcopal *potestas*, or because he did not value the possibility of collegial activity on the part of the Synod, writes: "However, in the event that such a power (i.e., legislative and judicial) were conceded to the Synod, it would then emanate from the supreme *potestas* of the Pope, as is the case with the Roman dicasteries, but not from the *potestas* of the College of Bishops."⁴¹¹ ⁴¹² .

Antón's position is the one that seems to us to be the most theologically elaborate; however, it still leaves us perplexed by certain questions: Is it possible to envisage a situation, a special circumstance, a particular case, in which the Synod of Bishops is truly representative of the entire College of Bishops, to the point that the decision taken in the Synod is truly that of the entire College? Can a synodal resolution accepted by the Pope be

410 "When, tuttavia, i vescovi riuniti nel Sinodo manifestassero il voto delle loro Conferenze Episcopali e attraverso di esse di tutto il Collegio Episcopale, in un determinato argomento, e questo parere fosse liberamente accettato dal Romano Pontefice come tale, cioè come **parere di tutto l'episcopato cattolico**, nulla si opporrebbe a considerare questa decisione dei vescovi e dei Papa come una decisione strettamente collegiale. Such a collective exercise of the power of the vassals is not different from what they do in Council and from what they can do for the world, when there is the necessary **consent of the supreme pastor and of the whole College of Vassals**. However, even in this case, it is always true that the *Synodus Episcoporum* for its own nature ("suapte natura"), or rather for the reason that it was established with the *Apostolic request*, does not have a collegial power in the broad sense of the word -> (A. ANTÓN, *Sinodo e collegialità extra-conciliare dei Vescovi*, in V. FAGIOLO & G. CONCETTI, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, p. 76).

411 J. NEUMANN, *Die Bischofssynode in Theologische Quaderschrift Tübingen* 147 (1967), pp. 19-20.

412 A. ANTÓN, *Sinodo e collegialità extra-conciliare dei Vescovi*, in V. FAGIOLO & G. CONCETTI, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, p. 76.

seen as true collegial decision, the result of a true consensus of the episcopate, the fruit of an act in which the bishops and the Pope are all parties *in solidum*? Is the representation of the College of Bishops by the Synod Fathers sufficient to speak of a collegial act in the strict sense? In the last paragraph, we propose, by means of a theological reflection based on the historical data of the Ecumenical Councils, to provide elements of an answer, without claiming to resolve completely this difficult question, which is still being debated among theologians

IV COLLEGIALITY IN THE STRICT SENSE IN THE SYNOD
OF BISHOPS. ANALYSIS IN THE LIGHT OF
FROM THE EXPERIENCE OF THE ECUMENICAL COUNCILS

The realization of a strictly collegial act is only possible in virtue of a *consensus of the universal episcopate*, which is achieved either the occasion an Ecumenical Council or in some other way when the bishops are dispersed throughout⁴¹³. It is now a question of seeing, by analogy with the Ecumenical Councils, what conditions would be required for a consensus of the universal episcopate when it is dispersed throughout the world.

IV - 1. The theology of the councils and the consensus of the bishops

According to the canonical provisions of the Church⁴¹⁴, reflecting the centuries-old doctrine of theologians, a Council can only be said to be ecumenical if it meets certain conditions. The Constitution *Lumen Gentium* recalls that *there is no Ecumenical Council unless it is as such confirmed, or at least accepted, by the Successor of Peter: to the Roman Pontiff belongs as a prerogative to convoke Councils, to preside over them and to confirm them*TM.

For a Council to be ecumenical, it must be so in its convocation, its celebration and the fullness of power that will be guaranteed if the Pope confirms its decrees⁴¹⁵.

413 We have already established this in paragraphs III - 1. 2 and III - 1. 3.

414 *CIC* (1983) can. 338-341.

415 For a detailed study of the theology of the Ecumenical Councils and the conditions of ecumenicity (convocation, celebration, and confirmation by the Pope), one may refer to the following reference works: first, the treatise of Cardinal and Doctor of the Church R. Bellarmine, who in this field has clearly outlined the principles of the theology of the Ecumenical Councils (R. Bellarmine, *De Conciliis et Ecclesia*, in *Disputation*). Bellarmine, who in this field has clearly outlined the principles of the theology of the Ecumenical Councils (R. BELLARMINE, *De Conciliis et Ecclesia*, in *Disputationes*, Tomus II, Apud Joannem Melanchinum, Venetiis, 1721). Let us also note the works: C. PESCH, *De Ecclesia Christi*, in *Institutiones Propedeuticae ad Sacram Theologiam*, Herder, Friburgi, 1903, pp. 275- 283; C. MAZELLA, *De Religione et Ecclesia*, Ex officina typographia Forzani et socii, Roma, 1892, pp. 795-809; D. PALMIERI, *Tractatus de Romano Pontifice*, Editio altera, Prati, 1891, pp. 670 & seq.; G. WILMERS, *De Christi Ecclesia*, Ratisbonae, 1897, pp. 394 & seq.; H. DIECKMANN, *De Ecclesia*, Vol. II,

We will not dwell on the papal prerogative of convocation by the Supreme Pontiff, since it is not strictly indispensable for a Council to have an ecumenical character: the first eight Ecumenical Councils were convoked by the Eastern emperors⁴¹⁶. Nor will we dwell on the presidency of Ecumenical Councils: if, according to law, it belongs only to the Pope or his legates, it has been realized in different ways in history⁴¹⁷. As for the confirmation or approval of Ecumenical Councils, this is strictly reserved to the Supreme Pontiff, and is an indispensable condition which cannot be omitted without invalidating the legitimacy and authority of the conciliar decisions. We will rather focus our attention on the participation of the bishops in these Councils, with a view to their application to the Synod of Bishops.

Yves Congar says about the theology of the Councils: *We cannot disregard the facts of the past: a theology of the Councils is only valid if it is made also from history*TM. Therefore, a look at the Ecumenical Councils recognized as such⁴¹⁸, with a more particular attention to the number, quality and provenance

Herder, Friburgi, 1925, pp. 731 & seq.; A. M. VELLICO, *De Ecclesia Christi*, Rome, 1940, pp. 590 & seq.; Th. THIELEN, *What is an ecumenical Council?*, Newmann Press, Westminster, 1960; V. PERI, *I Condi e le Chiese, ricerca storica sulla tradizione d'universalità dei Sinodi Ecumenici*, Studium, Rome, 1965; G. ROUTHIER, *La reception d'un Concile*, Les Éditions du Cerf, Paris, 1993. We have been forced to note that it is difficult to find recent works which devote a substantial study to the theology of the Ecumenical Councils. A systematic work of renewal should be undertaken in order to perfect the knowledge inherited from the past, in the light of the theological achievements of this last century and especially of the Second Vatican Council

416 Cf. J. FORGET, *Les Conciles Œcuméniques*, collection "Science et Foi", Maison de l'Action Catholique, P. Dieltjens Éditeur, Brussels, 1910, pp. 45-55.

According to M. Miladi, "As for the first problem (as the convening of the Ecumenical Councils), it is known from history that the first seven Ecumenical Councils were not convened by the Supreme Pontiff but by the emperors of the East and also by an emperor. There is a debate among the historians about the interpretation of these facts; the most common explanation is that the emperors' action was an unjust interference of the civil powers in ecclesiastical matters, an interference that was tolerated by the Summa Pontifici for historical deaths that did not occur" (M. MIDALI, *Commento al capitolo III della Lumen Gentium: La costituzione dogmatica sulla Chiesa*, "Collana Magistero conciliare" 1, Edizione Elle Di Ci, Torino-Leumann, 1965, pp. 655-656)

417 It is sufficient to recall that the second and fifth Ecumenical Councils (Constantinople I and Constantinople II respectively) were not ecumenical at the time of their celebration because of the lack of representation of the Bishop of Rome.

418 For a general study of the history of the Ecumenical Councils, reference may be made to the following basic works: C. J. HEFELE - H. LECLERCQ, *Histoire des Conciles Œcuméniques*, Tomes 1-12, Paris, 1907 ff; G. DUMEIGE and H. BACHT (edited by), *Histoire des Conciles Œcuméniques*, Tomes 1-12, L'Orante, Paris, 1962 f.; G. ALBERIGO (ed.), *Les Conciles Œcuméniques*, Tome I, *L'histoire*, Les Éditions du Cerf, Paris, 1994; F. DVORNIK, *Histoire des Conciles*, Éditions du Seuil, Paris, 1963; A. FAVALE, *I Concili Ecumenici nella storia della Chiesa*, Società Editrice Internazionale, Torino, 1962; J. FORGET, *Les Conciles Œcuméniques*, collection "Science et Foi", Maison de l'Action Catholique, P. Dieltjens Éditeur, Bruxelles, 1910; H. JEDIN, *Kleine Konziliengeschichte*, Herder-Bücherei, Freiburg-Basel-Wien, 1961; G. FERRARIS DI CELLE, *I Concili Ecumenici*, Edizione Paoline, Roma, 1960; J. L. MURPHY, *Iventum Concilii Ecumenici*, Edizione Paoline, Roma, 1961; P. PAIAZZINI (diretto da), *Dizionario dei Concilii*, Istituto Giovanni XXIII, Città Nuova Editrice, Roma, volumi 1-6, 1963-1967; H. J. SIEBEN, *Vom Apostelkonzil zum ersten Vatikanum in Konziliengeschichte*, Fernand Schöningh ed.,

of the participants is of undoubted interest. A consideration of the various Councils sheds some light on the question of the participation of the episcopate in strictly collegial acts, as those of a Council are

Ecumenical. If we understand from the historical record how and why the Church recognized this or that Council as ecumenical, we will be able to draw useful conclusions by analogy as to whether it is possible to speak of an act of collegiality in the strict sense, on the occasion of a synodal assembly, where the participation of bishops is limited

IV - 2 The Ecumenical Councils recognized as such by the Church

There is no official list of the Councils recognized as ecumenical by the Catholic Church, unlike the sacred texts which are listed in the Canon of Scripture. However, the list has long been established by tradition in the Roman Church, according to which Vatican II is the twenty-first Ecumenical Council⁴¹⁹.

Nowadays, some authors contest the enumeration of these Councils and consider this classification arbitrary⁴²⁰, but their arguments often do not agree. Driven by a desire to adopt a more open attitude with the separated Brethren, they are inclined to question the ecumenical character of the Councils subsequent to that of Nicaea II⁴²¹.

As N. Tanner, St. Robert Bellarmine's list of councils was accepted within the Roman Catholic Church, and all these councils were normally called

Paderborn-München, 1996; J. TANNER, *I Concili della Chiesa*, Jaca Book, Milan, 1999.

419 It should be noted that the Roman edition of the Ecumenical Councils published by authority of Pope Paul V, was made possible by the work of a team of researchers with the participation of Cardinal Bellarmine. This four-volume edition, published from 1608 to 1612 by J. Sirmond, entitled *Concilia generalia ecclesiae catholicae Pauli V Pontificis maximi auctoritate edita*, is considered to be the first official edition with authoritative status. All subsequent editions were based on this *editio romana*, which they completed or improved. The last critical edition of all the decrees of the 21 Ecumenical Councils, produced by the Institute of Religious Sciences of Bologna under the direction of G. Alberigo, entitled *Conciliarum (Ecumeniconum) Decreta*, was published in Bologna in 1973. Subsequent translations of this edition have been made into various languages: English (1990), Italian (1991), French (1994)

420 For example H. Wagner: "The enumeration of the Ecumenical Councils goes back in its common form (which considers the Council of Vatican II as the 21^{eme} Ecumenical Council) to Robert Bellarmine (his list is from the year 1600). This list clearly has an apologetic character and is not without problems as far as objective reality is concerned, and therefore it is not irreversible" (H. WAGNER, article "*Sinodo ; Concilia*", in *Enciclopedia Teologica* [a cura di P. Eicher], Queriniana, Brescia, 1989, p. 966)

421 The reaction of an author such as J. Van Laarhoven is a typical example: "This statement is in keeping with the tradition of reserving the term *Ecumenical Council* for twenty-one ecclesiastical meetings held over a period of seventeen centuries, even though this tradition is historically unsustainable, ecclesiology inaccurately and ecumenically intolerable. A terminology once established is indestructible, but all the more deserving of demystification" (Van LAARHOVEN, *The Ecumenical Councils in the Balance: A Quantitative Overview*, in *Concilium* VII [1983], p. 81).

"ecumenical" rather than "general". This list acquired for a time a semi-official character, although it was never defined as such by authority. The question was reopened in 1974⁴²².

Finally, it should be noted that it is not correct to say, as some authors do, that the criterion of ecumenicity depends on the extent to which the Council was *received* by the whole of Christendom⁴²³. Such reasoning logically leads to the denial of the ecumenical character of the post-Nicene II Councils, and may even call into question the ecumenicity of all post-Chalcedonian Councils. On the other hand, if one were to demand from the Pontifical Magisterium such a criterion of reception by Christianity, in order to judge the infallibility of its teaching, one would go directly against the affirmation of the Council of Vatican I, according to which *Romani Pontificis definitiones ex sese, non autem ex consensu Ecclesiae, irreformabiles esse*³⁵. Let us note, moreover, with Y. Congar that *the last Council which is common to us with the Orthodox East, the Second Council of Nicaea, 787, itself proclaimed that, in order for a Council to be ecumenical, it must be received by the "praesules ecclesiarum" and in the first place by the Pope*³⁶, which is quite different from a reception by the whole of Christianity.

IV - 3 Elements of reflection based on historical data on the number and origin of bishops at the various Ecumenical Councils

The data that have come down to us on the progress of the Ecumenical Councils show a great disparity in the participation of the bishops in the Councils. At the end of our work, we have appended a table⁴²⁴, the result of a study by J. Van Laë-hoven, which summarizes the approximate participation of the bishops in the 21 Ecumenical Councils. It allows the following observations:

- the proportion of participants in relation to the total number of bishops, members of the College of Bishops, has varied greatly according to circumstances and times. The last two Councils have seen a numerically and proportionally very high participation of the world's episcopate (Vatican I with about 700 participants and Vatican II with about 2000), but, with the possible exception of the Councils of Chalcedon and Lyons II (with 630 and 500 participants respectively), the other Councils have brought together only a relatively small proportion of the members

422 J. TANNER, *I Concili della Chiesa*, Jaca Book, Milan, 1999, p. 59.

Note that the *Dizionario sintetico di teologia*, Libreria Editrice Vaticana, 1995, by G. O'COLLINS and E. FARRUGIA, accepts the classical nomenclature of the Councils: - Sulla base di un primo elenco steso da san Roberto Bellarmino, i Cattolici accettano comunemente ventun Concili Ecumenici dal Niceno I al Vaticano II (articolo "Concilia Ecumenica").

423 Thus F. Wolfinger argues: "Not only for the historical effect, but also for the theological appreciation of a Council, it is not unimportant to examine whether it has been recognized only in a narrow area, or by the whole of Christendom. The extent of this reception decides the status of a Council as a partial synod or as an Ecumenical Council; only a reception by the universal Church makes a Council Ecumenical. This status has never been disputed in Christian theology, although it has not been the object of any particular reflection" (F. - WOLFINGER, *The Ecumenical Council and the Reception of its Decisions*, in *Concilium* 187 [1983], p. 124).

424 Cf. J. Van LAEHOVEN, *Les Concils Œcuméniques dans la balance; un aperçu quantitatif*, in *Concilium* WH [1983], pp. 86-87).

of the College of Bishops by right.

-Some Ecumenical Councils had no Western bishops (1st and 2^o of Constantinople); the other five of the first seven Ecumenical Councils had a preponderance of Eastern bishops; the Fifth Lateran Council was composed almost entirely of Italians. The Council of Trent was mainly composed of Italians and Spaniards, and on the day of its opening there were only 35 prelates. It was, however, unquestionably ecumenical. The Council of Vienna in Gaul intentionally brought together a small number of prelates (110 bishops and 39 abbots), the Pope allowing those who were not summoned to be represented by others. The Councils of Constantinople IV⁴²⁵, Lateran II, Florence, and Lateran V, had only a relatively modest number of participants (around a hundred), and no one in the Catholic Church had dared to question their ecumenicity until recently.

According to the Bellarmine criterion, taken up by the Church's legislation, a Council is ecumenical by virtue of the fact that it was convened, when all the

Bishops of the Catholic world have been called⁴²⁶. For it to be so in virtue of its celebration, this call must have been heard and bishops from all parts of the Church must have come to it.

But in practice, since a number of bishops are often prevented from attending, ecumenicity is not dependent on the effective participation of all, or almost all, of them. It is not even required that the number of those present exceed those absent; the history of the great majority of Councils attests to this. What number of bishops present, then, will be necessary and sufficient? Neither theological reason nor the history of councils provides a categorical and universally applicable answer on this point. However, it seems that we can discern at least one general principle: after the universal convocation, there must be an effective meeting of the Bishops or Prelates of the various countries, in such quantity or proportion that it can be said, in view of the circumstances that the whole constitutes a true and moral *representation* of the whole Church; not only a moral representation, (understood in the sense that we have usually given to the Synod of Bishops⁴²⁷), but a real and objective representation. Finally, in the case of serious doubts about the ecumenicity of this or that Council, it will be up to the Church herself to decide this question, which concerns a dogmatic fact.

According to J. Forget, the Church's declaration does not aim to create ecumenicity of convocation or ecumenicity of celebration where these are lacking; rather, it authentically and infallibly establishes them, if they exist; moreover, it can, if necessary, produce ecumenicity of authority:

♦ This last form of ecumenicity (ecumenicity of authority) which usually results from the first two, and cannot be lacking if they meet, is their essential purpose. It alone is absolutely indispensable for constituting the Ecumenical Council as such, that is, as the juridical representation, the

425 See M. JUGIE, *Article "Constantinople IV"* in *DTC*, vol. XI/2, col. 1290 & seq.

426 R. BELLARMINE, *De Conciliis et Ecclesia*, in *Disputationes*, Tomus II, cap. 15, Apud Joannem MeJachinum, Venetiis, 1721, p. 15.

427 See Chapter II, § I - 1. 3.

authorized organ of the whole Church; in this sense, it is, so to speak, its formal element, as opposed to its external and material conditions. It is capable of replacing the other two, without anything being able to replace it"⁴²⁸.

This is also the view of M. Midali⁴²⁹, who recognizes the lack of adequate representation of the Western episcopate for the first seven Ecumenical Councils, but sees papal recognition as the decisive element that can overcome the material deficiencies of ecumenicity:

If we consider the numerical composition of the first seven Councils, we must recognize that they were Eastern Councils rather than true Ecumenical Councils: the Western Church was not always present and generally had only a very small representation. The Western Church was not always present and generally had very little representation. The Supreme Pontiff participated through his legates; in the case of the Councils of Constantinople I (in 381) and Constantinople II (in 553), the papal legates did not even appear

From this historical data emerges the thinking of the Church of the first eight centuries: according to her, there is no Ecumenical Council without at least the acceptance of the Bishop of Rome, Successor of Peter: this is what the conciliar statement (LG22) affirms"⁴³⁰.

Thus, the formal ecumenicity of a Council does not require that all the bishops of the whole world, who, *jure divino*, are all invited, be gathered together in one place, which would be objectively impossible, and the history of Ecumenical Councils proves this abundantly. But according to the general feeling of theologians, it is sufficient that the bishops present come from different parts of the Church account historical circumstances and the international political situation, it can be said that the universal Church is represented in a moral way. Thus, according to St. Robert Bellarmine, for a Council to be ecumenical, it is sufficient that at least a few bishops from the

428 J. FORGET, *Les Conciles Œcuméniques*, collection "Science et Foi", Maison de l'Action Catholique, P. Dieltjens Éditeur, Brussels, 1910, p. 10. The author continues: - One understands, moreover, that it will never exist except through the presence or at least the cooperation of the Pope. Without the Sovereign Pontiff, no episcopal assembly, however numerous, can personify the governing Church, since it will never be more than an acephalous body. On the other hand, the intervention of the supreme pastor, by guaranteeing the absolute and universal authority of decisions, will often suffice to make up for what might otherwise be lacking in ecumenicity" (*op. cit.*, p. 10).

429 "The historical testimonies concerning these first seven Councils are unanimous in holding that the conciliar declarations were not judged to be the expression of a true Ecumenical Council and did not have the force of law for the universal Church, as long as the confirmation or at least the posterior acceptance of the Supreme Pontiff was missing. In the cases of the Councils of Constantinople I and Constantinople II, there was in fact only a later acceptance. The pontifical confirmation of the other five Councils was not done personally by the Pope but by his legates who affixed their signatures to the conciliar decrees" (M. MIDALI, *Commente al capitolo III della Lumen Gentium: La costituzione dogmatica sulla Chiesa*, "Collana Magistero conciliare" 1, Edizione Elle Di Ci, Torino-Leumann, 1965, p. 655).

430 *Op. cit.* > pp. 655-656.

greater part of the Christian provinces be present; if the Council is held in the East, it seems sufficient that a large number come from all the provinces of the Christian East, and that from the West only a few come, sent by the Roman Pontiff, who take the place of all the others; If, on the other hand, the Council is celebrated in the West, it is sufficient that a large number of bishops from the Western provinces should be present, and that from the East only a few should come, representing the others⁴³¹.

For Y. Congar, ecumenicity is not a question of quantity; it appears, in the very intention of the Council Fathers, to be linked to the unanimity of the witnesses who are gathered, whatever their number⁴³².

A theology of the Councils which takes history into account, therefore, forces us to note that the physical presence of all the bishops, required by the very nature of the Ecumenical Council⁴³³, is not an absolute, and that many bishops who are physically absent are in fact morally present and implicitly included in the consensus of the episcopate, either because they feel represented in person of the Roman Pontiff, or because their adhesion is manifest in the reception of the conciliar act. Y. Congar emphasizes the representative value of the Council, which acts in the name of the entire Episcopal body: *Æcumenicity and infallibility presuppose the agreement of the whole Church and therefore, in the case of a Council, that it is representative of the whole body. But this representative value is not necessarily linked to the number of Bishops present: precisely because of the virtually universal value of the episcopate in each of them*⁹¹.

It is worth noting that the solemn confirmation of a Council by the Pope is not sufficient to create ecumenicity. In fact, history counts several provincial councils whose decrees, ratified by the Pope, enjoy infallibility, but which, being limited to a too restricted portion of the episcopate, are not listed among the Ecumenical Councils⁴³⁴.

In case of doubt about the ecumenical character of a Council, it is advisable to follow the opinion of the Church, as J. M. Hervé wisely says:

431 R. BELLARMINE, *De Conciliis et Ecclesia*, lib. 1, cap. 17, in *Disputationes*, Tomus II, Apud Joannem Melachinum, Veneriis, 1721, p. 17 : "ut saltem ex majori parte Christianarum provinciarum aliqui adveniant; et si quidem concilium fit in Oriente, semper visum est sufficere, si ex provinciis omnibus Orientis episcopi conveniant multi, ex toto autem Occidente mittantur aliqui a Summo Pontifici, qui suppleant aliorum locum. Et e contrario, si celebretur in Occidente, conveniant ex omnibus provinciis Occidentis multi, ex Oriente autem pauci aliqui veniant nomine aliorum".

432 Y. CONGAR, *Conclusion in Le Concile et les Conciles, Contribution à l'histoire de la vie conciliaire de l'Eglise*, Éditions de Chevetogne et Éditions du Cerf, Paris, 1960, p. 318. In the same article the Dominican theologian recognizes that "historically as well as theologically, it is the approval or confirmation by the Pope which has been, as it still is, the final criterion of ecumenicity." However, he recognizes the need to evaluate "ecumenicity in itself, as an internal property of a Council which the Church will recognize, which the Pope will proclaim, but which by definition, recognition or proclamation presupposes" (*Ibid.*, pp. 317-318).

433 "Jus est et officium omnibus et solis Episcopis qui membra sunt Collegii Episcoporum, ut Concilio (Ecumenico cum suffragio deliberativo intersint)" (*CIC* [1983], canon 339).

434 We think, for example, of the second Council of Orange (year 529) or the eleventh Council of Toledo (year 675) approved respectively by Popes Boniface II and Innocent III.

If any doubt arises as to the ecumenical character of a Council, it is for the Church to judge such a dogmatic fact. She does not create ecumenicity of convocation and celebration, where it may be lacking, but she declares it authentically and infallibly, if it exists"⁴³⁵.

IV - 4 The Synod of Bishops as a place of collegiality in the strict sense

In our previous statement on the limited effective participation of bishops in certain Ecumenical Councils, we believe we have demonstrated that the limited number of participants in a Synod is not in itself an insurmountable obstacle to the realization of an extra-conciliar act of the College of Bishops on the occasion of a Synod of Bishops. By analogy with the Ecumenical Councils, a synod may, in a specific case, assume a truly collegial character when the number and quality of the representatives attest to the morally unanimous presence of the world's episcopate and its adherence to the decisions adopted. To this end, the role of the Supreme Pontiff will be decisive. It is his role to give the Synod of Bishops a deliberative function. The approval of the synodal conclusions by the Supreme Pontiff could be the final step in the collegial process. We therefore unhesitatingly support the position of A. Antón's position, as set out in paragraph III - 3. 2 of this chapter⁴³⁶.

In practice, things are less clear. In the event that the Supreme Pontiff grants deliberative power to the synodal assembly, it would not be easy to perceive whether the conclusions of a synod are the fruit of a consensus of the entire episcopate. Let us not forget that *episcopal collegiality, in the proper or strict sense, belongs only to the whole College of Bishops, which, as a theological subject, is indivisible*⁴⁰.

It will therefore be necessary to distinguish *case by case*, by examining precisely the type of representation with which the Synod is clothed. Two hypotheses can be envisaged:

1) If the questions to be deliberated are relatively simple and can be resolved by a simple affirmative or negative answer, and if already within the episcopal conferences a near-unanimous consensus on these questions has been reached, the representation of the College of Bishops will be really facilitated, and the Synod Fathers, representing their episcopal conferences, will express by their

435 J. M. HERVÉ, *Manuale Theologicæ Dogmaticæ, De Revelatione Christiana - De Ecclesia Christi - De Fontibus Revelationis*, apud Berche et Pagis Editores, Parisiis, 1935, p. 494.

436 We quote again the view of Father Antón: Quando, tuttavia, i vescovi riuniti nel Sinodo manifestassero il voto delle loro Conferenze episcopali attraverso di esse di tutto il Collegio episcopale, in un determinato argomento, and that this statement was freely accepted by the Roman Pontiff as such, that is to say, as the statement of the entire Catholic episcopate, no one should consider this decision of the bishops and the Pope as a strictly collegial decision" (À. ANTÓN, *Sinodo e collegialità extra-conciliare dei Vescovi*, in V. FAGIOLLO & G. CONCETTI, *La collegialità episcopale per il futuro della Chiesa*, Vallecchi Editore, Firenze, 1969, p. 76).

deliberation and their vote the thought and determination of the universal episcopate⁴³⁷. The final decision, reached by the Synod, and retained by the Pope, will ultimately be the expression of a morally unanimous consensus of the College of Bishops; it will then be strictly collegial, especially if the Pope explicitly retains it as such. Thus, even if it is

Although it is true that the representation of the College of Bishops by the Synod has nothing juridical about it, as we said above⁴³⁸, in this particular case it coincides with the real physiognomy of the episcopate and makes it possible to note the existence of an extra-conciliar act of episcopal collegiality⁴³⁹. It should be noted that, in this hypothesis, the resolution of the Synod Fathers is only *the manifestation of a reality that transcends them*, namely, the consensus of the bishops dispersed throughout the world on a well-determined action.

In other words, in the case where the bishops scattered throughout the world agree on a precise measure to be taken in this or that area, it is not obvious that they have reached a consensus. The prior unanimity of the College of Bishops on the decision to be taken may be revealed in all its clarity on the occasion of the Synod of Bishops. The Synod of Bishops then officially makes the decision in union with the Pope and thus ratifies the act of collegiality in the strict sense of the dispersed episcopate.

We know that in the area of the *potestas docendi*, the Church professes the possibility of infallible teaching by the universal ordinary Magisterium⁴⁴⁰, that is, by the entire episcopate in union with the Supreme Pontiff; but it is not always easy to discern in practice the circumstances or occasions of the exercise of this ordinary Magisterium by the episcopate dispersed throughout the world. On the level of *potestas regendi*, the problem is somewhat analogous: it is difficult to determine with precision the occasions of an exercise of the collegial power of the episcopate dispersed in union with the Pope, but a Synod of Bishops could be a very good opportunity to note a consensus in the decision adopted in union with the Sovereign Pontiff.

It should be remembered that *collegial power can be exercised in union with the Pope by the Bishops residing on the face of the earth, provided that the head of the College calls them to act collegially, or at least gives this common*

437 Let us not forget that in the Synod of Bishops, the members elected by-localepiscopates are given instructions and are to be the spokesmen of the opinion their episcopal conference; that they are also to express the point of view of the minority of the bishops of their same conference, in accordance with n. I of the *Explicationes* (EXPLICATIONES CIRCA ORDINEM SYNODI EPISCOPORUM CELEBRANDÆ RECOGNITIONEM ET AUCTUM, *Synodi Episcoporum*, 1974) The final decision of synodal assembly will reflect the morally unanimous consensus of the world's episcopate expressed through its representatives

438 "It cannot be said in a juridical sense that the bishops also represent the other Churches or are delegated by them" (PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENTO, *Response of the Commission for the Revision of the Code of Canon Law*, September 20, 1983, in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Rome, 1985, p. 180).

439 In fact, the bishops exercise a *potestas* which has its foundation in the ontological and sacramental reality of episcopal collegiality.

440 Cf. Dogmatic Constitution *Dei Filius* of Vatican Council I (DS 3011).

*action of the dispersed Bishops his approval or free acceptance so as to make it a true collegial act*⁴⁴⁰ The Synod can be the privileged place for a certain ascertainment of the *common character*,

consensus and In this case, the process making up the collegial act in the strict sense includes primarily the presynodal phase which achieves consensus and secondarily the synodal phase which establishes the consensus and obtains the approval of the Supreme Pontiff.

Let us think also of the Ecumenical Councils mentioned earlier, in which the numerical attendance was not very large. The presence of this small number of Fathers, together with the approval of the Supreme Pontiff, was sufficient to qualify their decisions as conciliar acts which constitute an exercise of collegiality in the strict sense. The episcopate as a whole, through the mouths of these few representatives, was supposed to adhere to the measures decided or the definitions solemnly proclaimed. Similarly, the Synod of Bishops, which also has a limited number of participants, is able to express adequately the general opinion of the universal episcopate, and to manifest a true consensus of the episcopal body, when the quality of the delegates of the episcopal conferences reveals a very strong adhesion of these same conferences.

2) But if the questions to be deliberated are relatively complex, and require a confrontation of ideas with debates, so as to allow for the elaboration of a conclusion, and to finalize decisions satisfactory to all the Synod Fathers, our response will be different. Indeed, the quality of the representation is no longer the same. In the previous chapter⁴⁴¹, when we examined the question of the representation of the College of Bishops by the Synod, we saw that the bishops, as members of the College, could not be represented nor could delegate to representatives the power they possess, or even their charism of teaching⁴⁴². The charisms which the Holy Spirit distributes to each of the successors of the Apostles are not adequately represented in a deliberately small assembly, where discussions play a large role in determining the final decision.

Therefore, it is not certain that a decision taken under these conditions, even if approved by the Roman Pontiff, would be the work of the entire episcopate. A decision of this kind, even if it is the result of a deliberative process of the Synod of Bishops, with the ultimate approval of the Pope, will not necessarily be a collegial act in the strict sense, but will often have to be attributed to the *primatial* power exercised by the Roman Pontiff⁴⁴³. Rather, it is a participation in the *personal munus* of the Pope, a participation which requires of the members of the

441 Cap. III, §1-3. 3.

442 "Non sembra possibile che un vescovo deleghi il proprio carisma magisteriale" (J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, pp. 26-27).

443 E. Correco imagines an intermediate solution when he says: "Per comprendere e accettare la formula del Sinodo dei Vescovi con voto deliberativo, si potrebbe ricorrere all'idea del *Votum per compromissum*, con il quale si è cercato di fare una sintesi tra il principio della *pars sanior* et quella della *pars major* (cf. L. MOULIN, *Sanior et major pars; Note sur révolution des techniques électorales dans les Ordres religieux du VI^e au XIII^e siècle*, in *RHDFE* 36 [1958],

synodal assembly a real responsibility in the judgment adopted by each of them, but which is not identified with the personal responsibility of the Supreme Pontiff, in whom *all responsibility for the decision* then resides. Since in this case the bishop members of the synod receive their power of deliberation by delegation from the Supreme Pontiff, and not as representatives of the College as a whole, the decision taken by the synodal assembly and ratified by the Pope is an act which is connected with the latter's primatial power.

It is thus clear how difficult it is to discern and appreciate the collegial value of the act undertaken: a collegial act in the strict sense, committing the College of Bishops as such, or a collegial act in the broad sense, ultimately imputable to the Supreme Pontiff.

A period of hindsight and discernment will often be necessary in order to appreciate the world episcopate's awareness of its responsibility for the final decision adopted by the Synod of Bishops in union with the Pope. By analogy with the Ecumenical Councils, it will be up to the Church to determine the juridical quality of the final decisions. Just as the ecumenicity of some Councils was only fully revealed after their celebration⁴⁴⁴, the collegiality of an act decided in the Synod of Bishops can be more accurately assessed at a later stage.

E. Corecco, remarks on the case where the Roman Pontiff calls the Synod to exercise deliberative power:

"One would be justified in thinking that the ecumenical, i.e. universal, value of the collegial decisions of the Synod of Bishops (no longer resting on the primatial power of the Pope) could result only from a subsequent reception part of the universal Episcopate, as has been the case with many particular and general Councils"⁴⁴⁵.

It may be that at the time of their celebration, the synodal acts ratified by the Supreme Pontiff do not appear clearly as acts involving the responsibility of the universal episcopate; full awareness of the collegial character could be recognized later by the Church or by the Pope; only then will the certainty of the existence of the collegial act be reached.

pp. 493-501). Ciò richiederebbe però, che l'Episcopato Universale fosse chiamato a decidere sulle trattande da mettere all'ordine del giorno del Sinodo, al quale volta per volta cederebbe la propria competenza" (E. CORECCO, *Parlamento ecclesiale o diacono sinodale*, in *Communio* 1 [1972], footnote 15, p. 34). In other words, the Synod could, in his opinion, possibly be seen as an organ with full power on a particular topic (*volta a volta*) left to the deliberation of the Synod Fathers, after the universal episcopate had, by common agreement, referred the matter to it.

⁴⁴⁴ Let us think of the first Eastern Councils, whose ecumenicity was officially recognized only after their celebration, thanks to approval of the Pope and the consent of the Western bishops. We have already spoken of Constantinople I and Constantinople II in the preceding paragraph.

⁴⁴⁵ E. CORECCO, *Parlamento ecclesiale o diacono sinodale*, in *Communio* 1 (1972), footnote 15, p. 34.

Conclusions

At the end of this work, which has taken us from the conciliar aula of Vatican I to the recent meetings of the Synods, passing the pointed and sometimes passionate debates of the Second Vatican Council, it is important to summarize the interesting discoveries made along the way. The theological study of the recent institution of the Synod of Bishops, analysed in the historical and doctrinal context of the debate on collegiality, has brought to light a series of significant results on the ecclesiological level.

Partial conclusions have already been reached in the course of this work; we wish only to recall them, emphasizing their logical sequence and their implications for an adequate understanding of the "Primate-Episcopate" relationship within the Synod of Bishops. May we thus have contributed to a better understanding of this institution in the life of the Church, and its theological implications in the correct evaluation of the role of the Primate and the episcopate in the service of the Church!

I - COLLEGIALLY IN ITS HISTORICAL DEVELOPMENT AND DOCTRINAL

I - 1. Collegial acts in the strict sense: a homogeneous doctrinal development

The first part of our study discerned the doctrinal development of the notion of collegiality, by means of a research on the theme of the government of the universal Church by the Pope himself and by the Pope united to the College of Bishops, starting from the very texts of the First Vatican Council and the unpublished works that accompanied it.

The study of the debates of this Council, especially thanks to the report of Bishop Zinelli, official reporter of the Constitution *Pastor æternus*, and thanks to the report accompanying the preparatory outline of the second Constitution on the Church, written by the theologian Kleutgen, has made it possible to highlight the role of the episcopate in the government of the Church, whenever the Pope calls it to a collegial act. We have seen that the theme of participation of the bishops in the universal government of the Church was already present in the minds of the

Council Fathers of Vatican I⁴⁴⁶. Only the interruption of the Council prevented the publication of a document on this question, on which there was already a solid consensus among theologians.

The doctrine of collegiality, as officially recognized in the text *Lumen Gentium* 22, illuminated by the *Nota explicativa pravia*, is in fact only the culmination of a long process towards a deeper understanding of the primacy of jurisdiction. This process of maturation and reflection, begun over the centuries, continued during the first Vatican Council, and laboriously pursued in the period leading up to the Second Vatican Council, made it possible to state explicitly, in the manner of a homogeneous development, the doctrine of the supreme power of the College of Bishops, *cum Petro et sub Petro*, over the universal Church. The explicit affirmation of this collegial power underlines the link between the Supreme Pontiff and the College of Bishops; it further manifests the united and indivisible character of the Body of Bishops, which has its source in the sacramentality of the episcopate

I - 2. the episcopate's concern for of the Universal Church

The work of the Second Vatican Council on the College of Bishops was not limited to the statement of the strictly collegial power that can be exercised by the Episcopal Body in union with its head, under very precise conditions. They have also embraced, in a very broad way, the whole of the relationship between the Primate and the Episcopate. The texts of the Council and the successive documents of the Magisterium, especially the *Motu Proprio Apostolos suos*, have not restricted the understanding of the collegial character of the episcopate to the juridical application of a strictly collegial act of government. They also wished to give the concept of collegiality (even if this term was not used in *Lumen Gentium*⁴⁴⁷) a theological and moral meaning, in which the prerogatives of the Roman Pontiff would be safeguarded and his links with the other bishops in the government of the universal Church valued

Thus, attention was drawn to the bishops' concern for the universal Church:

The bishops, each for his part, placed at the head of each particular Church, exercise their pastoral authority over the portion of the People of God entrusted to them and not over the other Churches or over the universal Church. But, as a member of the College of Bishops and legitimate successor of the Apostles, each of them is bound with regard to the united Church, by the institution of Christ, to that *solicitude* which is, for the universal Church, eminently profitable even if it is not exercised by an act of jurisdiction⁴⁴⁸.

446 Let us recall that Fr. Kleutgen, in 1870, on the occasion of the preparation of the second outline on the Church, considered the doctrine of the supreme jurisdiction of the College of Bishops united to the Pope as a sure doctrine, which *per se ipsum fidei dogma certissimum enuniat*.

447 We have seen that the term collegiality, avoided in the conciliar texts, was later used by the later magisterium of Popes Paul VI and John Paul II.

448 LG 23.

CONCLUSIONS

This solicitude of the Bishops for the universal Church is an expression of the communion that presides over the exchanges of ecclesiastical hierarchy; it calls for implementation in the order of concrete applications, so that the Church of God may be administered ever more effectively under the responsibility of the Supreme Pastor and with the cooperation of those who, as successors of the Apostles, have been entrusted with the task of shepherding Christ's one flock. This pastoral solicitude of the universal episcopate in union with the Supreme Pontiff has its origin in *Vaffectus collegialis*, of which the Council speaks (LG 23), and which is rooted in the sacramental character of the episcopate; its mode of exercise has known different applications in the course of history. The universal dimension of the episcopal *munus* occasionally expressed in the collegial exercise of supreme power (what we have called "collegiality in the strict sense"), is also found in participation in solicitude for the universal Church, even if its content is not defined in a strictly juridical way. This twofold aspect of collegiality constitutes the frame of reference which allows for a correct evaluation of the theological value of the Synod of Bishops, since the responsibility of each Bishop in relation to the universal Church, in union with the other Bishops⁴⁴⁹, has found a new mode of existence in this institution, which was born on the occasion of the Second Vatican Council.

II - THE APPEARANCE OF THE SYNOD OF BISHOPS AS THE FRUIT OF THE CONCILIARY EVENT

The Synod of Bishops was officially born of the intervention and personal decision of Pope Paul VI, who established its composition, role and function in the *Motu proprio Apostolica sollicitudo* of 15 September 1965. However, it is necessary to recall the close link between this founding document and the exceptional ecclesial event of this century, the celebration of the Second Vatican Council.

The Synod, the institution of which had already been suggested by the pre-conciliar Commission responsible for drawing up the outline on the bishops, and whose proposal had been the subject of extensive debate in the Council's own assemblies, appeared to be the fruit of the conciliar event and of the theological reflection accomplished by the Fathers. In this regard, let us recall the words of Paul VI on 29 September 1967:

◆ We said that this new organism of the visible government of the Church must refer to the last Council recently celebrated, as to its proximate source: it was instituted by Us during the Council and was as it were begotten by the

⁴⁴⁹ Let us recall that the conciliar decree *Christus Dominus* specifies: "cum ex Dei institutione et praecepto apostolici muneris unusquisque (episcopus) Ecclesiae una cum ceteris Episcopis sponsor sit" (CD 6).

Council⁴⁵⁰ .

The Decree on the Pastoral Office of Bishops, in its original formulation, sought to reflect the doctrine of collegiality, which had just been elaborated in the Constitution *Lumen Gentium*. In concrete terms, it envisaged the possibility, mentioned by Paul VI himself, of associating certain members of the episcopate with the Pope for the good of the universal Church, according to a new modality, which nevertheless remains in harmony with the constant tradition of the personal exercise of supreme power. The proposed text asked that *certain Bishops from various regions of the world give more effective assistance to the Supreme Pastor of the Church, according to the forms and principles which he would consider opportune, by gathering in a kind of Coetus or Council, which would at the same time signify the participation of all the Bishops in the concern for the universal Church*. This text, prepared by the Commission on Episcopacy, was intended to maintain the doctrine of supreme *potestas*, both that usually exercised by the Roman Pontiff, for whom the new Council was seen as a consultative and instrumental body, and that of the College of Bishops, whose Synod would signify a form of participation in the care of the universal Church.

The final text of the Council, *Christus Dominus*, published after the publication of the *Motu proprio Apostolica sollicitudo*, also echoed these aspirations and placed the Synod within the framework of the participation of all bishops in hierarchical communion in the solicitude of the universal Church⁴⁵¹ .

By instituting the Synod of Bishops, Paul VI, taking into account the wishes of the Council Fathers, wished to provide the Church with a council of bishops from all regions of the world, a council immediately subject to the primate power, through which the bishops of the whole world can give effective assistance to the Supreme Pastor of the Church. As Pope John Paul II rightly said, *the Synod of Bishops was born in the fertile soil of the Second Vatican Council; it came into being thanks to the wisdom of my predecessor Paul VI*³ .

III - THE DOCTRINAL DEBATE ON THE NATURE OF THE SYNOD OF BISHOPS

III - 1. The incisive *totius catholici episcopatus partes agens*, in the *Motu proprio Apostolica sollicitudo* and in the conciliar decree *Christus Dominus*

We have seen that the expression *totius catholici episcopatus partes agens*, relating to the Synod, which appears in the text of the *Motu proprio*, as in that of the conciliar text *Christus Dominus*, speaks of a representation of the episcopate

450 PAUL VI, *Allocution for the inauguration of the Synod of Bishops*, 29 September 1967, in *Catholic Documentation* 1503 (1967), p. 1733.

451 "Episcopi e diversis orbis regionibus selecti, modis et rationibus a Romano Pontifice statutis vel statuendis Supremo Ecclesiae Pastori validiorem praestant adiutricem operam in Consilio, quod proprio nomine Synodus Episcoporum appellatur, quae quidem utpote totius catholici Episcopatus partes agens, simul significat omnes Episcopos in hierarchica communione sollicitudinis universae Ecclesiae participes esse" (CD 5)

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by the Synod of Bishops. But this formulation was not taken up in the canonical legislation; it was clearly specified by the official Reporter of the Decree that the use of this phrase was to be understood only in the sense that the Synod was a "sign" of the participation of the College of Bishops in the care of the universal Church, but not in the sense, as some would have it, that the Synod was an "exercise" of the "munus" of the College of Bishops⁴⁵². This theological clarification, together with that provided by the Pontifical Commission for the Revision of the Code of Canon⁴⁵³, is of great importance for understanding how the Synod represents the College of Bishops. This representation is based theologically on the participation of all bishops in the pastoral care of the whole Church. However, from a juridical point of view, it is not adequate to see the Synod as an organ that would offer the College of Bishops the possibility of governing the universal Church in solidarity with the Pope in the usual way

III - 2 The role of the Synod is essentially consultative, exceptionally deliberative

In accordance with the Motu Proprio and the Statutes which determine in detail the functioning of the Synod of Bishops, the latter has essentially a consultative role. *Ad Synodum Episcoporum suapte natura munus pertinet edocendi et consilia dandi*⁴⁵⁴. By giving information, by providing advice or even wishes on certain specific matters, by giving its best advice, at the request of the higher authority that requires it, the Synod assumes the essential role for which it was instituted. This consultative role enables the Bishops of the world to make their voices heard through the delegates who represent them at the synodal assembly; If, on a strictly juridical level, the weight of an advisory opinion is of little importance compared to the final decision, the responsibility for which is assumed entirely by the Roman Pontiff, on an ecclesiological level, the *vetotum* of the Synod of Bishops is more than an opinion, it is the witness of a group of bishops from all over the world, elected by their peers, each of whom is responsible for the Church entrusted to him. Thus, this witness of the first pastors makes it possible to realize more concretely the communion of the particular Churches and to make it more operative alongside the Pope in the service of the one Church of Christ, in which these particular Churches are intrinsically inserted in a relationship of mutual interiority⁴⁵⁵.

Even though the Synod's advice is of great moral weight, it is well understood

452 See Bishop Gargiter (AS II, vol. III, p. 131).

453 PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Response of the Commission for the Revision of the Code of Canon Law* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p. 180.

454 *Apostolica sollicitudo* II, in AAS 57 [1965], p. 776.

455 Cf. CN 13. This is what J. R. Villar rightly calls an *intrinsic reciprocity* in an ontological circumnession (J. R. VILLAR, *Il ministero episcopale nella -Communio Ecclesiarum-*, in *I vescovi e il loro ministero* [a cura di P. Goyret], Libreria Editrice Vaticana, Rome, 2000, p. 79).

that the Synod of Bishops, in fulfilling its consultative role, does not directly exercise any authority over the universal Church, the supreme *potestas* remaining the exclusive prerogative of the Supreme Pontiff or of the College of Bishops as For this reason the Synod cannot be said to be co-responsible with the Supreme Pontiff for the government of the Church. It is not an organ of co-responsibility.

However, it is not excluded, even if this has never been realized, that the Synod of Bishops may exercise a deliberative function, if it pleases the Supreme Pontiff to do so in particular circumstances, while remaining under the supreme authority of Peter. This is provided for in the founding text, the *Motu proprio Apostólica sollicitudo*, in the decree *Christus Dominus, P Ordo Synodi Episcoporum Celebrando* (1969), and in the *Codex Iuris Canonici*.

Cardinal Marty summarized the purpose and nature of the Synod in a few words:

"The Synod is not a deliberative assembly like the Council. It is a council of the Pope. It has three objectives: to inform the Pope, to reflect with him on certain questions and to present him with wishes. No more than that. It wants to help the Pope to better assume his task, leaving him not only his freedom, but the responsibility of his decision. However, the Synod, or its Council, can also help the Pope in the preparation of important documents"⁴⁵⁶.

III - 3 Episcopal collegiality and the Synod of Bishops

very time when the teaching of the Council emphasized that the foundation of collegiality was to be found in the sacramental character of the episcopate, and that the relationship of the episcopate to the universal Church was one that included *natura sua* a close adherence to the primacy of the bishop of Rome, that the Synod was born. This institution has emerged as a privileged place where the two terms of the Primate/Episcopate binomial meet.

We have seen that the Synod, correctly understood in its juridical meaning as a consultative body of the primatial authority, also reveals itself in all its richness as an organ at the service of collegiality *The affectus collegialis*, which binds the Bishops together in virtue of the sacrament which configures them all *in solidum* to Christ the Shepherd and Christ the Priest, is manifested in the Synod in the *effective collegiality* which is exercised there. This collegiality is not considered in the strict sense, since the Synod is, *suapte natura*, a consultative body which assumes a role of advice and not of decision; it has its *raison d'être* in the *solicitude* for the universal Church, which remains the primary concern of the synodal institution, even if this concern is not exclusive. Clothed with the moral authority of the Catholic episcopate, the members of the synodal assembly concretely actualize this *solicitude*, of which *Lumen Gentium* 23 speaks, and which, in the course of the synod, is manifested in the following particulars:

456 E MARTY, *Chronique vécue de l'Église de France*, (interview with Jean Bourdarias), Le Centurion, Paris, 1980, p. 217.

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- the meeting and gathering of bishops from all parts of the world, responsible for their particular Churches

- the convocation by the one who is the center of the bonds of hierarchical communion, the permanent and visible principle and the foundation of the unity which binds together both the pastors and the multitude of the faithful

- The help and advice that these pastors offer to the Supreme Pastor of the Church, who, in the exercise of his own *munus*, makes the final decision.

For this reason, the Synod strengthens, while profoundly uniting them, the responsibility of the Supreme Pastor for the whole Church and the participation *in care* of the universal Church of those whom Christ has chosen to lead the particular Churches. It also fosters the communion of the particular Churches with one another and the communion of each of them with the universal Church.

The Synod of Bishops, in fulfilling its consultative role, is therefore an institution which not only expresses an affective collegiality, but also implements a true and effective collegiality, understood in the broad sense, which promotes greater communion in the Church. It is a privileged instrument which is at the service both of collegiality and primacy; it is suitable for promoting a happy harmony between the two terms of the binomial "Primate-Episcopate", as Pope John Paul II says with the words already quoted:

"This is how the vital relationship between the *solicitude omnium Ecclesiarum* of every Bishop and the primacy of Peter takes on its strength, as I have already had occasion to state in the past: in the mystery of the Church, all elements find their place and function. And so the function of the Bishop of Rome inserts him deeply into the Body of Bishops, as the center and pivot of episcopal communion; his primacy, which is a service for the good of the whole Church, places him in a relationship of union and more intense collaboration. The Synod itself emphasizes the intimate link between collegiality and the primate: the office of the Successor of Peter is also a service to the collegiality of the bishops and, conversely, the effective and affective collegiality of the bishops is an important aid to the primate's service of Peter"⁴⁵⁷.

In addition to the consultative role, the Synod of Bishops could possibly play a deliberative role, if the Pope were to confer this function, as foreseen in the founding document. In this hypothesis, we have identified the elements necessary for a collegial act *in the strict sense*. A synodal assembly, in fact, even if endowed by the Roman Pontiff with deliberative power, is not equivalent to an Ecumenical Council, of which all the bishops of the Catholic universe in communion with the Apostolic See are members by right. In order to achieve a collegial act *in the strict sense*, such a synod must have to be an exact expression of the Episcopal Body dispersed throughout the world. For this reason, the representative value of this synodal assembly, which is composed of only a limited number of bishops, must be

⁴⁵⁷ JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), p. 104. Cf. also *Address to the General Council of the Synod*, 30 April 1983, in *Catholic Documentation* 1854 (1983), p. 612.

assessed on a case-by-case basis.

An examination of the 21 Ecumenical Councils traditionally recognized as such in the Catholic Church has shown that the number of bishops present for the realization of a collegial act which commits the College as a whole can vary according to historical circumstances. It became clear that it is not so much the number of bishops gathered in one place that gives the Council its ecumenical character, but rather the fact that the universal Church is duly represented by the pastors who take part. They reflect the position of the universal episcopate, which forms an indivisible whole with its Head

In the case of the Synod of Bishops, the representation of the episcopate is not of a juridical type, but rather of a moral or theological type, and this is where the difficulty lies. A decision taken by the Synod of Bishops and endorsed by the Pope can only be qualified as strictly collegial if the whole episcopate scattered throughout feels itself to be a part of this decision, and considers it truly as its own, and not as something extrinsic; this would not be the case if the decision were taken by the higher authority, namely the Supreme Pontiff assisted by the council of Synodal Fathers, who must be obeyed in a spirit of hierarchical submission

Therefore, the possibility of collegial acts in the strict sense on the occasion of the Synod of Bishops should not be excluded a priori, especially when one is assured that the representation of the College of Bishops is carried out in an adequate manner; but one should be careful not to pronounce hastily and to generalize such an assessment. The strictly collegial nature of a decision taken in a synodal assembly might be clearly recognized, for example, in the case where the Pope explicitly declares that the action taken is not his sole responsibility, but the responsibility of the universal episcopate.

As we travelled along the path from the elaboration of the constitution *Pastor aeternus* of the First Vatican Council to the constitution of the Synod of Bishops and the promulgation of the *Motu proprio Apostolosuorum*, we could see that the doctrine of collegiality established at Vatican II, the convocation of Synods representative of the universal Episcopate and the dynamics of such institutions, did not jeopardize the doctrine of the primacy of jurisdiction of the Roman Pontiff, but on the contrary, reinforced it. We can even say that these successive developments were already contained in the Acts of the first Vatican Council, to which should be added the preparatory plans, not discussed in the assembly. The continuous progression of the theological reasoning on the unchanging hierarchical structure with which Christ endowed his Church, together with the consideration of historical circumstances which modify ecclesiastical institutions, allows us to appreciate the relevance of the words of Jesus in the Gospel: *every scribe who is instructed in the kingdom of the two is like a householder who brings forth from his treasure new and old*⁴⁵⁸.

458 Mt. 13:52.

III - 4. Fears and Hopes about the Synod of Bishops

Our work has deliberately been limited to the area of the power of government, and has not addressed the question of the ordinary and universal magisterium of the episcopate dispersed throughout the world (LG 25), which is related to the extra-conciliar power of the College of Bishops (LG 22); Similarly, we have not dealt directly with the question of the timeliness of the Synod in the present life of the Church; nor have we spoken of the possibilities of reform or improvement of the synodal institution, aspects which remain open to research and which could be the subject of further work. While we have emphasized the advantages of implementing collegiality, and the special role of the Synod of Bishops in this process, we have said little about the concrete difficulties of actually carrying out such an undertaking. Let us simply say in a few words that the Synod of Bishops can give rise to two kinds of reservations.

First, there is distrust on the part of what we would call the *collegialist* trend. It is certain that, in everyday language, the word *collegiality* has become one of those words charged with much ambiguity, like the word *freedom* or the word *love*, which take on completely different meanings depending on how it is used by the Christian, the sociologist or the man in the street. Thus, the term - *collegiality*, sometimes used as a slogan, can become the object of conscious or unconscious manipulation. This is the case when it is used in a spirit of demand, of contestation, to restrict or condition the exercise of pontifical authority in order to impose a reservation or even silence on the Sovereign Pontiff. If the use of the word becomes a pretext for a kind of dialectic, seeking to oppose the Pope to the episcopate by means of power struggles, then we leave behind authentic collegiality, as it has been understood in the Church over the centuries and as it has been made explicit in the conciliar documents and the recent magisterium of the last Popes, as we have seen we say about collegiality applies especially to the Synod of Bishops, which is a *privileged expression of episcopal collegiality*.⁴⁵⁹ The Synod only makes sense as united with the Pope; it is not a parliamentary body which should, as a counterweight, temper the power of the Roman Pontiff. Like the Ecumenical Council, whose eminent services to the Church in particularly grave and decisive circumstances of her history no one would deny, the Synod cannot be set up as a supreme principle, or as a superior body, to which every authority, including that of Peter, should refer. The danger of conciliarism can find an extension today in *collegialism*.

Following the great schism in the West, the Council was seen by some theologians as the universal remedy and the obligatory means for the Pope and the Church to take major decisions. They claimed to want to fix a regular frequency for the convocation of conciliar assemblies, and at the same time they asserted, in the open, the superiority of the Council over the Pope⁴⁶⁰. Similarly, according to some,

459 JOHN PAUL II, *Address to the Council of the General Secretariat of the Synod*, 23 February 1980, in *Catholic Documentation* 1782 (1980), p. 255.

460 This was exactly the position of the Fathers of the Council of Constance who decreed the

a proper understanding of the doctrine of *Lumen Gentium* should lead to more collegial forms of government, and the Synod of Bishops would henceforth be an obligatory means of achieving this end. But the requests do not end there: it is not unusual for this institution to be reproached for not functioning collegially⁴⁶¹. The present determination of the frequency, duration, and themes chosen is not, it is said, satisfactory. The Pope still plays too decisive a role, to the detriment of what some call the voice of the particular Churches or the proper exercise of collegiality⁴⁶². Thus, according to the proponents of *collegiality*, collegiality would be diverted from its primary purpose to the benefit of a strengthening of papal power, through the Synod, since the final decision is made by the Pope. The post-synodal exhortations drawn up by the Holy Father, who chooses from among the proposals of the Fathers those which he deems appropriate to retain, appear to be an appropriation of all the synodal work by the pontifical authority.

The second reservation, on the other hand, is that of marginalizing the Synod of Bishops, considering it simply as a purely consultative body at the service of the Primate, with no impact on the life of the Church. The media-political climate of one-upmanship, which seeks to crystallize difficulties and reopen questions

regular convocation of Ecumenical Councils, at the rate of one every ten years (*Decree "Frequens"* of the 39th session, October 9, 1417, in G. ALBE-RIGO, *Conciliarium (Ecumenicorum Decreta*, Bologna, 1973, p. 439) and affirmed the superiority of the Council over the Pope (*Decree "de Concilii auctoritate"* of the 5thth session, April 6, 1415, in G. ALBERIGO, *op. cit.*, p. 409). These decrees were never sanctioned by the Roman Pontiff.

461 many would like the Episcopal Synod instituted by Paul VI to be transformed into a sort of Council, becoming, against the letter and spirit of its institution, the regular organ of the magisterium of the universal episcopate. As long as the Synod, they believe, has only a consultative role, collegiality will not be fully realized. This, we believe, is a double misunderstanding... If some wanted to force the Pope to carry out the decrees of some majority, they should be reminded that even in the case of an Ecumenical Council, there is never any reason to oppose the Pope and the other bishops, and even more reason to subject the first to the second" (H. de LUBAC, *Église particulières, Église universelle. Conference given at the Centre Saint-Louis de France in Rome*, October 28, 1971, unpublished document).

462 The former Archbishop of San Francisco, Most Rev. Quinn, echoed this thinking in a lecture given in Oxford on June 29, 1996: "The international Synod of Bishops is another exercise of the collegial teaching office of the Bishops. But the Synod has not met the original expectations of its establishment. The Synod was envisioned as being a way for the bishops of the world with the Pope to deal with major issues touching the Church... At the present, however, the topic of the Synod is identified by a small commission of approximately fifteen cardinals and bishops, elected by the Synod, who present their proposal to the Pope. Ultimately the Pope chooses the topic... My point is simply to underline that issues of major concern in the Church are not open to a free and collegial evaluation and discussion by bishops, whose office includes being judges in matters of faith... The procedure of the Synod are outdated and not conducive to collegiality in its fuller sense. These would, in fact, prove alien to many of those seeking unity who are used to parliamentary procedures and more free exchange and debate on issues. A new way of structuring and holding these Synods could have a significant effect on the search for unity and the exercise of true collegiality.

It would make the Synod more truly a collegial act if the Synod had a deliberative vote and not merely a consultative one. And this, too, would be a greater incentive to unity and a more authentic embodiment of collegiality" (J. R. QUINN, *The Exercise of the Primacy and The Cosdy Call to Unity, in The Exercise of the Primacy* [a cura di Phyllis Zagano and Terrence W. Tilley], The Crossroad Herder Company, New York, 1998, pp. 17-18)

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already decided by the higher authority, gives rise to a well-founded apprehension of the risk of overflowing; the fear of not succeeding in bringing the plurality of opinions together towards unity, and the fear of giving publicity to certain opinions contrary to sound doctrine or to the discipline of the Church, can dissuade a wider use of this instrument. However, it is often found that when problems are faced in an atmosphere where everyone has opportunity to be heard, the cohesion of the episcopate around the Pope is enhanced. Even if, like every human institution, the Synod has its limits and can even have its excesses, the experience of the last thirty years shows that it is a useful instrument, which has rendered great service in strengthening the communion of the Church and in improving the exercise of the pastoral office. It is right to hope that this instrument of communion will continue to produce abundant fruit.

We know that it belongs to the Pope, and to him alone, to determine, in complete freedom, the forms of collegiality to be updated, as for example to convoke a Synod, whenever he deems it opportune. The Pope's criterion of appreciation is obviously the good of the Church. A great openness to the Holy Spirit is necessary for him to make the wisest and most prudent decision.

In this context, we cannot help but refer (purely as an indication, without forcing the analogy) to the wisdom of St. Benedict, who in chapter III of his Rule, on the subject of *the Assembly of the Brothers in Council*, states the following

a matter of importance to be decided in the monastery, the Abbot will summon the whole community and will himself explain what. After having obtained the opinion of the brothers, he will deliberate separately and then do what he deems most useful... The brothers will give their opinion in all humility and submission. They will not presume to brazenly support their way of seeing things, but it will depend on the Abbot to decide what is best; and all must then submit. However, just as it is fitting that the disciples obey the master, so it is also necessary that the master dispose of everything with foresight and fairness"⁴⁶³.

If we now consider the Synod of Bishops in its consultative function, it seems that these very measured directives of St. Benedict offer a prudent and wise course of action, applicable, *mutatis mutandis*, both to the one who has the ultimate responsibility for the decision on the universal Church and to those who are called upon in the synodal assembly to assist him with their advice.

463 ST. BENEDICT, *Benedicti Regula*, text translated and annotated by D. P. Schmitz, Maredsous, 1962, p. 28.

**Annex to paragraph IV - 3
of Chapter IV of Part Two**

Summary table of the different Ecumenical Councils with the approximate number of participants⁴⁶⁴.

	Concites	Dates	Duration in days	Minimum / maximum number of bishops
1	Nicaea I	325	about 30	250/318
2	Constantinople I	381	about 50	130/150
3	Ephesus	431	about 60	150/210
4	Chalcedon	451	25	350 ! 630
5	Constantinople II	553	29	150/168
6	Constantinople III	680-681	314	150/174
7	Nicaea II	787	30	252 / 365
8	Constantinople IV	869-870	147	12/103
9	Lateran I	1123	10	200 / 300
10	Lateran II	1139	7	50/110
11	Lateran III	1179	15	300 ! 322
12	Lateran IV	1215	20	402/412
13	Lyon I	1245	20	140/161
14	Lyon II	1274	72	220 / 500
15	Vienna	1312	204	124/165
16	<i>Constance</i>	1414-1418	1265	320 / 895
17	Florence	1438-1445	664	7 8/150!
18	Lateran V	1512-1517	1779	85 / 146
19	Thirty	1545-1563	1822	17/236
20	Vatican I	1869-1870	317	535 ! 774
21	Vatican II	1962-1965	281	2023 / 2399

⁴⁶⁴ This table is essentially based (with minor additions or corrections with regard to the medieval councils) on the figures and data given in the article by Jan Van Laarhoven (J. Van LAARHOVEN, *The Ecumenical Councils in the Balance: A Quantitative Overview*, in *Concilium* 11 [1983], pp. 86-87).

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II

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8. T. E. I. VAN VALENBERG, Bishop of Comba, *AD*, Series I, Vol. II, Pars IV, p. 261.

Bishop Franic, Apostolic Administrator of Split in Yugoslavia, advocated annual meetings of the College of Cardinals to discuss the problems of the universal Church: *Ut omnes Patres Cardinales quotannis congregentur in Concilium ad problemata Universalis Ecclesia discutienda* (cf. *AD*, Series I, Vol. II, Pars II, p. 550).

47. HS IV, vol. II, p. 523.

60. PAUL VI, *Allocution for the inauguration of the Synod of Bishops*, 29 September 1967, in *Catholic Documentation* 1503 (1967), p. 1733. Here is the text in its entirety: "In this regard We have declared that this new organism of the visible government of the Church must

be related to the recent Council as well as to its forthcoming principle: it was during the Council that We created it, and it was practically born of the Council. During the Council the need for greater communion, not only in the existence but also in the activity of the Catholic episcopate, whose collegial character in the constitutional structure of the Church was rightly brought to light by the Council, became apparent; and in the same way We had already clearly perceived the urgent need for the collaboration and advice of Our brothers in the episcopate, in a broader and more organized form, in the pastoral government of the Church itself. our day such a form has become more easily practicable thanks to the prodigious development of the means of

transport"

64. W. RUBIN, *Presentazione al volume collettivo "Karol Wbityla e il Sinodo dei Vescovi"*, Editrice Vaticana, Roma, 1980, p. 5. It is also fair to say, as Pope John Paul II makes clear, that the Synod "was shaped even before the end of the Council in the brilliant spirit of Paul VI"> (JOHN PAUL II, *First Radio Message "Urbi et Orbi"*, 17 October 1978, in *Catholic Documentation 1751* [1978], p. 903). (John Paul II, *First Radio Message "Urbi et Orbi"*, October 17, 1978, in *Catholic Documentation 1751* [1978], p. 903); or that "the Synod of Bishops germinated in the fertile ground of the Second Vatican Council, it was able to see the

light of day thanks to the sagacity of my predecessor Paul VI" (JOHN PAUL II, *Discourse to the General Council of the Synod*, April 30, 1983, in *Catholic Documentation* 1854 [1983], p. 611)

75. Cf. J. B. D'ONORIO, *The Pope and the Government of the Church*, Éditions Fleurus-Tardy, Paris, 1992, p. 407. Lay people may be called to participate in the Synod as auditors or experts, or as special guests when their particular competence predisposes them to shed light on particular themes, as is customary in the Synods held in Rome

99. It is Cardinal J. Villot, Prefect of the Congregation for the Council, Cardinal W. Conway, Archbishop of Armagh, and Cardinal P. Felici, President of the Pontifical

Commission for the Promotion of the Church. Villot, Prefect of the Congregation for the Council, Cardinal W. Conway, Archbishop of Armagh, and Cardinal P. Felici, President of the Pontifical Commission for the revision of the Code of Canon Law.

Explanationes circa normas procedendi in primo cætu generali Synodi Episcoporum, Typis Polyglottis Vaticanis, MCMLXVII, pp. 1-8.

42. A. ANTÓN, *La Collegialità nel Sinodo dei Vescovi* in J. TOMKO, *Il Sinodo dei Vescovi, Natura, Metodo, Prospettive*, Libreria Editrice Vaticana, Roma, 1985, p 79. This is also the opinion of N. Loda: "La consultività episcopale nel Sinodo dei Vescovi si esprime con la

manifestatio sententiae quale atto formale/finale dei dibattiti che è il parere manifestato dai Vescovi stessi nel documento conclusivo, divenendo quindi constatazione potestativa di un comune sentire dei problemi ecclesiali superando la dicotomia puramente formale e giuridica della teoria generale del diritto" (N. LODA, *La Collegialità nella Chiesa con particolare riguardo alle varie forme di collegialità episcopale*, P. U. L., Rome, 1995, p. 162).

46. "Per activitatem Synodi Episcoporum collegium Episcoporum munus, a Christo Domino collatum in ordine ad partem habendam in gubernatione Ecclesiae universalis, exercet" (W. BERTRAMS, *Commentarium in Litteras Apostólicas "Apostolica sollicitudo"* in

Periodica 55 (1966), 124).

63. W. AYMAN, *op. cit.*, p. 260.

69. JOHN XXIII, Motu proprio *Cum gravissitna*, 15 April 1962, in *Catholic Documentation* 1375 (1962), col. 553-554. This new measure was taken up by his successors and even inserted into the Code of *Canon Law* (CIC [1983], can. 351, § 1). From now on, it is only by derogation that the Pope can authorize a cleric appointed cardinal not to receive the episcopal consecration, as was the case for Cardinals H. De Lubac, P. Dezza, P. Pavan, Y. Congar, etc.

71. PAUL VI, *Allocution during the consistory of Cardinals*, 26 June 1967, in *Catholic Documentation* 1498 (1967), p. 1303.

Ibid. at 776. The Code of Canon Law expresses the matter in a still more restrictive manner, insisting on the truly occasional character of such a deliberative vote: "Synodi Episcoporum est de quaestionibus pertractandis disceptare atque expromere optata, non veto easdem dirimere de iisque ferre décréta, nisi certis in casibus potestate deliberativa eandem instruxerit Romanus Pontifex, cuius est in hoc casu decisiones Synodi ratas habere" (*CIC* [1983], can. 343).

99. CIC (1983), can. 342.

106. F. ROMITA, *Il Synodus Episcoporum*, in *Monitor Ecclesiasticus* 43 (1968), p. 419.
Cf. also G. CAPOCASA, *Il Sinodo dei Vescovi istituito dal Motu proprio * Apostolicasollicitudo**, Dissertatio ad lauream in Facultate Iuris Canonici apud Pontificium Universitatem S. Thomae de Urbe, Rome, 1975, p. 67: "Questa potestà deliberativa del Sinodo dei Vescovi rimane comunque ordinaria, anche se viene esercitata in modo straordinario. And the analogous example is found in the Ecumenical Council, which purely by virtue of an ordinary and proper power, for the very nature of this Council, exercises this same power in a

straordinarian way".

110 G. ALBERIGO, *Piramide di potere e forma collegiale di governo*, in *Crisi del potere nella Chiesa e risveglio comunitario*, Editrice A. Mondadori, Verona, 1969, p. 145.

114 G. P. MILANO, *Il Sinodo dei Vescovi*, Università di Sassari, Giufiré Editore, Milano 1985, pp. 266-267. Cf. also G. P. MILANO, *Forme e contenuti dell'attività consultiva nella Chiesa, con particolare riguardo al Collegio episcopale* in *Ephemerides Iuris Canonici* 46/2-3 (1990), pp. 303-305.

117. R. ROUQUETTE, *Une nouvelle Chrétienté, Le premier Synode épiscopal*. Les

Editions du Cerf, Paris, 1968, p. 40.

30. Cf. N. LODA, *La Collegialità nella Chiesa con particolare riguardo alle varie forme di collegialità episcopale*, P. U. L., Roma, 1995, pp. 153 & seq.

37. J. NEUMANN, *Die Bischofssynode* in *Theologische Quaderschrift Tübingen* 147 (1967), p. 13.

61. B. KLOPPENBURG, *O Sinodo dos Bispos. Representação e Ação do Colegio*, in *Rev. EcL Brasileira* 27 (1967), p. 334. The author goes further and affirms: "This constitutes a system of information which could exist without the bishops (experts would suffice) and

without taking into account the doctrine of *Lumen Gentium* on the supreme and plenary power of the bishops".

67. *LG* 23b: "Sed qua membra Collegii episcopalis et legitimi Apostolorum successores singuli ea **sollicitudine** pro universa Ecclesia ex Christi institutione et praecepto tenentur, quae, etiamsi per actum jurisdictionis non exercentur, summo tamen confert ad Ecclesiae universalis emolumentum".

68. *CD* 6: "Episcopi, qua legitimi Apostolorum successores et Collegii

episcopalismembra, inter se conjunctos semper se sciant atque omnium Ecclesiarum-
sollicitos sese exhibeant, cum ex Dei institutione et præcepto apostolici muneris
unusquisqueEcclesiæ una cum ceteris Episcopis sponsor sit.

In particular, the document lists the need for cooperation and assistance at the
episcopal level in the task of evangelization in countries where the faith is not yet, or only
slightly, established, the need for consultation among bishops for the distribution of
financial resources in favour of disadvantaged dioceses (*CD 6*), and the manifestation of
active charity and dedication towardspersecuted, hindered or mistreatedpastors(*CD 7*).

74. JOHN PAUL II, *Address at the Closing of the Synod of the Netherlands*, 25 October 1980, in *Catholic Documentation* 1796 (1980), p. 1052.

75. JOHN PAUL II, *Address to the Council of the General Secretariat of the Synod*, 23 February 1980, in *Catholic Documentation* 1782 (1980), p. 255.

85. JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), p. 103.

86. *Ibid.*, p. 103.

88. Cf. A. GARUTI, *La collegialità oggi e domani*. Edizione Dehoniane, Bologna, 1982,

p. 24.

99. We can quote again the authors previously met, such as Romito, Zurowski, Johnson, Tomko, Milano, Colombo, Marranzini, Albe- rigo, d'Onorio, etc... (See Chapter III, § I - 3. 3.).

100. Fr. MAREUJ^A (Cardinal), *Press Conference*, 25 September 1965 in - *L'Osservatore Romano*, 26 September 1965, p. 4.

106. We think, for example, of R. Laurentin who does not hide his disappointment in seeing the Synod of Bishops usually deprived of deliberative power: ♦ D Sinodo ha suscitato

grandi speranze e grandi delusioni. In esso si era visto, forse prematuramente, l'organo di una ristrutturazione collegiale del governo romano. In fact, he did not exercise any power and did not take any initiative or decision" (R. LAURENTIN, *Sinodo e Curia*, in *Concilium* 15 [1979], p. 1234). Further on, the author deplors the conditions of its erection which do not grant it any responsibility but a subordinate role and make the Synod "come un aiuto al primato (...) in ogni momento e sono tutti i rapporti, nella più totale dipendenza del Papa" (*Ibid.*, p. 1239).

For Tillard, the Synod of Bishops "exists only to give an opinion to the Roman Pontiff (...). For the sake of security, the monarchical vision has been preserved as an axis, without

yet achieving that collegial forms become anything other than a **service to the primacy**" (J. M. R. TILLARD, *VÉvêque de Rome*, Les Éditions du Cerf, Paris, 1982, pp. 64-65).

For Suenens, the Synod, insofar as it is not an expression of collegiality in the strict sense, remains only *a chamber of reflection for the Pope*:

- Theologians have believed that they can recognize in the present Synod a collegial, though not conciliar, form of power over the universal Church.

- Others contest this scope, saying that it is merely an aid requested by the Pope in the exercise of his power of primacy. I believe that this interpretation must be maintained, but an

evolution remains possible and desirable. At the present stage, the Synod, a chamber of reflection for the Pope's use, does not in itself imply any deliberative power. The Synod has nothing in common with the Synods as known in the Eastern Church. It is not specifically an expression of collegiality, although it is existentially so by the very fact that it appears as a continuation of Vatican II, the Council of Collegiality" (L. SUENENS, *La coresponsabilité dans l'Église d'aujourd'hui*, Desclée de Brouwer, Paris, 1968, pp. 81-82).

127. A ACERBI, *L'ecclesiologia sovrintesa alle istituzioni ecclesiali postconciliari in Cristianesimo nella storia* 2 (1981), p. 211. For him, "The Synod can hardly be considered

as an expression of episcopal collegiality, in which the proper right of the Body of Bishops is exercised" (*Ibid.*, p. 214) is clear how inaccurate this opinion is, if we consider the weight and authority that an opinion of the Synod of Bishops receives when the Pope makes it his own, and its repercussions on the universal Church

133. See Part I, Chapter III, § I.

137. See Part I, Chapter III, § III.

141. J TOMKO, *Visione del Sinodo di Vescovi di Giovanni Paolo II*, in G. SARAF (a cura di), *Karol Wbjiyla e il Sinodo dei Vescovi*, Città del Vaticano 1980, p. 23.

37. "Ut vero episcopatus ipse **unus et indivisus** esset, **et** per cohaerentes sibi invicem sacerdotes credentium multitudo universa in fidei et communionis unitate conservaretur, beatum Petrum ceteris Apostolis praeponens in ipso instituit perpetuum utriusque imitans principium ac visibile fundamentum..."(DS 3051).

38. *LG* 18a. As we have seen in the first part of our work (the Pars., Cap. IV, § VII), the membership of the Bishops in a *College*, even if the term *College* is not to be used in a juridical sense, manifests the profound unity of faith, charity and action which binds the members of the Episcopal Body.

74. LG 22.

78. Y. CŪXGAR, *Conclusion* in *Le Concile et les Conciles, Contribution à l'histoire de la vie conciliaire de l'Église*, Éditions de Chevetogne et Éditions du Cerf, Paris, 1960, p. 317.

85. DS 3074.

86. Y. CONGAR, *La réception comme réalité ecclésiologique*, in *RSPT* 56 (1972), p. 374.

97. Y. CONGAR, *op. cit.* p. 318.

101. *Aposostolos suos* 12b; see also JOHN PAUL II, *Address to the Cardinals and the Roman Curia*, 20 December 1990, in *Catholic Documentation* 2021 (1990), pp. 104-105. 106. *LG* 22b.

6. *AS* III, vol. VI, pp. 121-122.

8. JOHN PAUL II, *Address to the General Council of the Synod*, 30 April 1983, in - *Catholic Documentation* 1854 (1983), p. 611.

22. It would seem that it is ecumenical in its last part, that which follows the election of Pope Martin V, which embraces the last four sessions. In the last session of the Council,

on April 22, 1418, Pope Martin V had declared valid all that had been decided *conciliariter* in matters of Faith: "All that has been decided by the present and holy General Council of Constance, **conciliariter**, in matters of Faith, I admit and will keep in full. Whatever has been done **conciliariter circa materiam fidei**, I approve and ratify" (MANSI 27, 1198). The vagueness of this term *conciliariter* leaves the door open to discussions about the approval of the Council's decrees; Martin V only explicitly approved certain well-defined decrees in the bull *Inter cunctas* of 22 February 1418.