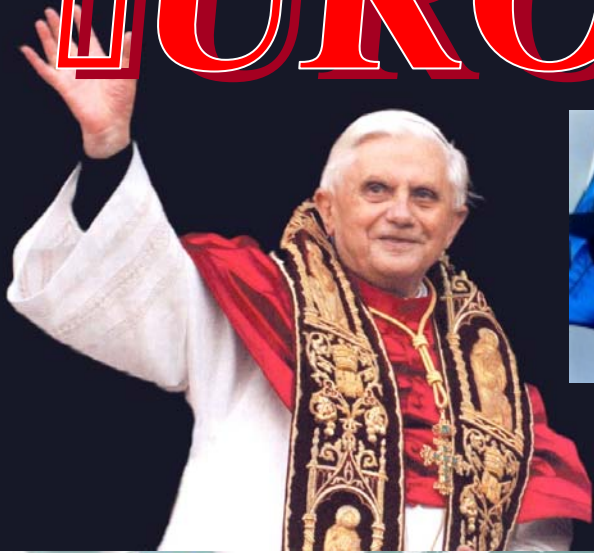


EUROPE



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European Parliament, Brussels, Belgium

PAPACY

EUROPE AND THE PAPACY

Wim Wiggers

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August 2007

Inter Europublishing
Narcisstraat 13
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Netherlands
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PREFACE

For years I am following the developments in the European Union. Most people look to the EU from an economical standpoint. I never did. I look to it from a religious standpoint. According to Scripture Prophecy, Europe will go back to the Middle Ages. The real danger comes from a judicial standpoint. It seems that our European politicians have lost their sense of national sovereignty. Every step taken they promised more democracy but less came out. And always there was a loss of national independency and sovereignty. The nation – state is dead. But this view has nothing to do with reality. It is an article of faith.

No amount of argument will change that view. But one thing must become very clear. Supra national government can not be democratic. It is mutual exclusive. Europe was built up until now with little spiritual stones. But that will change rapidly, as soon as *God*, - that means, religion, is brought into the European Constitution.

As a Bible believer I reject religion or God in the Constitution on the basis of three biblical reasons:

First, Jesus told us very clearly that we do not have any jurisdiction on heresy or for not listening to Him. For this kind of judgment we have to wait until the last day:

“And if any man hear my words, and believe not, I judge him not: for I came not to judge the world, but to save the world.

He that rejecteth me, and receiveth not my words, hath one that judgeth him: the word that I have spoken, the same shall judge him in the last day.

For I have not spoken of myself; but the Father which sent me, he gave me a commandment, what I should say, and what I should speak.

And I know that his commandment is life everlasting: whatsoever I speak therefore, even as the Father said unto me, so I speak” John 12:47-50.

That means that all forms of theocracy this side of the last day are wrong from a biblical perspective.

Second, I believe that every one should be guided by his own conscience. Conscience is the most holy place of human nature and no one, not a priest nor a reverent has the right to enter this most sacred realm to rule. Conscience is God’s temple in human nature. So far as religion is concerned, every man has to honor everyone else’s conscience.

The church in apostolic times and the early Christians, did not consider the decrees of the Cæsars. They listened only to the voice of their conscience.

“But if not, be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou has set up”. Dan. 3:18.

“My God hath sent his angel, and hath shut the lions’ mouths, that they have not hurt me: forasmuch as before him innocency was found in me; and also before thee, O king, have I done no hurt”. Dan. 6:22.

“But why dost thou judge thy brother? or why dost thou set at nought thy brother? fore we shall all stand before the judgment seat of Christ.

For it is written, As I live, saith the Lord, every knee shall bow to me, and every tongue shall confess to God.

So then every one of us shall give account of himself to God”. Rom. 14:10-12.

Third, Jesus separated forever the things which have to do with Cæsar from the things pertaining to God. In regard to civil government there is a wall of separation between the commandments concerning to man and the commandments concerning God.

“Then went the Pharisees, and took counsel how they might entangle him in his talk.

And they sent out unto him their disciples with the Herodians, saying, Master, we know that thou art true, and teachest the way of God in truth, neither carest thou for any man: for thou regardest not the person of men.

Tell us therefore, What thinkest thou? Is it lawful to give tribute unto Cæsar, or not?

But Jesus percieved their wickedness, and said, Why tempt ye me, ye hypocrites?

Shew me the tribute money. And they brought unto him a penny.

And he saith unto them, Whose is this image and superscription?

They say unto him, Cæsar's. Then saith he unto them, Render therefore unto Cæsar the things which are Cæsar's; and unto God the things that are God's".

When they had heard these words, they marvelled, and left him, and went their way". Matt. 22:15-22.

"Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.

Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall recieve to themselves damnation.

For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same:

For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath, but also for conscience sake.

For this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing.

Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.

Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law.

For this, Thou shalt not commit adultery, Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness, thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbour as thyself.

Love worketh no ill to his neighbour: therefore love is the fulfilling of he law". Rom. 13:1-10.

These convictions are the reason for this book.

The headings do not belong to the text, they have been added or changed by the editor.

Wim Wiggers.

Introduction

Before you lies a new book. It is on Europe, better on the European Union and the Papacy. Europe started as a concept in Greek mythology. Europa, a beautiful princess on the back of a pure white bull - Zeus, who had transformed himself into that bull. This is very significant. In the book of *Revelation* the last book in the Bible, we see again a woman riding a beast (*chapt. 17*). This is not just an accident. Greece is symbolized in the Bible as a goat, but their national emblem was also a goat. (See *Daniel 8* entire chapter). The same in *Daniel 7*. We see a lion with wings symbolizing the kingdom of Babylon. There the Ishtar gate was also full with images of lions with wings.

But leaving mythology we concentrate a moment on the papacy. We will never understand the papacy unless we see the Catholic Church as it is seen by the Catholic hierarchy. From the Catholic Encyclopedia we have a thorough explanation that the papacy considers itself being a nation. That is a very important concept. Being a nation, she has powers. The power of execution, the power of legislation and the power of judgment. But it is a nation unlike any other nation. Her laws are church laws. Canon law. The beginning of canon law were the canons of the big church councils. Already Constantine the Great gave the bishop a place in the court, to be a judge, to handle internal church matters.

But the real canon law started with the Justinian Code, where the pope was considered the head of all bishops and the final judge concerning heresy. Originally these canons of the councils were in the Civil Code but by and by there formed itself a whole separate book of law, called canon law. These laws had to do with *thinking*, with heresy.

But having laws you need a court. The court of the Catholic Church was called the Inquisition. And the final court of appeal was “the Holy Office”.

“The duty of the inquisitor, moreover, was distinguished from that of the ordinary judge by the fact that the task assigned to him was the impossible one of ascertaining the secret thoughts and opinions of the prisoner. External acts were to him only of value as indications of believe, to be

accepted or rejected as he might deem them conclusive or illusory ... acts were beyond his jurisdiction ...”.

In order to find out the inner thoughts and opinions, the judge of the court had two tools: torture and mental bombardment.

Now the point. How big was that Roman nation State? Sherman says: “As long as the papal supremacy was recognized, the canon law possessed unlimited power and formed the basis of the ecclesiastical law of every country”. Professor Erler from the University of Frankfurt says it his way:

“The meaning of Corpus Juris Canonici is not exhausted by that representing itself as an internal, autonomous church law. The emphasis was to be in competition with the secular law of its time. **With the papal code the world received a second Corpus Juris**, which at the same time claimed it was reforming the old Imperial Roman Corpus Juris Civilis for the time present”. Thus Canon law was first *from* the Church **yet by far not alone the law for the Church: but world dominion was its demand, equivalent to the demand of the Church for world dominance.** (*Kirchenrecht*).

So just as in a nation, you are born under the jurisdiction of the nation. You cross the border into Germany and in that moment you are under German jurisdiction. So with the Catholic nation–State. You are born into it and you cannot escape. The claim is the world; but if you are baptized as a Christian then, according to Catholic doctrine, you are a subject of that Church.

So, the Corpus Juris Canonici is the law book not only for the Church it is law for all the world.

This canon law is based in Catholic theology. According to Catholic doctrine society is an ongoing process of the incarnation:

“One person, Christ, having two natures, human and divine. The two natures, not mixed, not separated, not changed, not divided. So society is, Church and State not mixed, not divided, not separated, not changed”. *Das Erwachen der katholischen Kirche im Anfang des XIX Jahrhunderts*. Dr. J. Pascher, pg. 36.

Through Catholic Canon law the Catholic Church wants on the basis of Catholic theology to rule the world. This is considered as the rule of Christ. This is not separate from the State, not mixed with the State, not divided from the State, and the Church will not become civil. It remains a church. Wholly. But at the same time she is a nation – State in her own estimation.

In the Middle Ages this was a reality. It had its beginning with the Justinian Code and ended in the Republic of Rome in 1798.

The next thing to review is the role of the papacy back into her original position as a nation State with her laws and courts. In fact, it began within the decade of 1920, in the Catholic Student Movement. One of the books studied was *“Europe and the Faith”* by H. Belloc.

Belloc was convinced that Europe was: the Faith is Europe. Europe was Europe because of the Catholic Church. He wrote: “... the truth that Europe and the Catholic Church were and are one thing”.

According to Catholic reasoning, if this is really true, than Europe must be reshaped, re-evangelized, it has to be re-born. Then the Second World War

passed and a new era began. Some of the people of the Catholic Student Movement started a unification.

The pope in retrospect talking about the future of Europe says “persons who after the example and manner of many so called “Fathers of Europe” can be builders of tomorrow’s European society, establishing it on a firm spiritual foundation. (*Apostolic Exhortation on Europe*).

But we ask who are the “Fathers of Europe”? One thing is evident: Robert Schuman, Jean Monnet, Konrad Adenauer and Alcide De Gasperi. And the Church is considering to beatify them. It seems that Robert Schuman is now in the process of beatification.

These “Fathers” of Europe gave according to the pope a good example to those who should bring Europe onto a firm spiritual foundation.

The pope is convinced that he has to offer Europe the most precious gift, “Faith in Jesus Christ”. He is very determined to unite Church and State. The pope wants us to see everything by a Catholic candle. If you want to know the real point you should consider: “The Church’s concern for Europe is born of her very nature and mission. Down the centuries the Church has been closely linked to our continent ...” It could be called back to the future.

In order to understand where we are it would be well to consider Germany in the years just before the Second World War. Pacelli, the later Pope Pius XII, was as nuntius busy to get canon law into a concordat with Hitler. Pacelli succeeded. First of all, it was a treaty “between two authoritarians”, as Cornwell remarked. The price was the complete surrender of all Catholic societies. No Catholic soccer club, no youth club, no political party. It created a complete political vacuum.

We may think that canon law has no priority. We could be wrong. In Catholic circles the doctrine of the Church is the main doctrine. The Church is visible in canon law. But only two authoritarians will agree. Liberal democracy will not do it.

And here is the danger. Europe is authoritarian. Treaties and regulations are made behind closed doors. There is no open government. Light is only when we live in a political glasshouse. The light comes from outside, from the press, from the parliament, but here is no critical press. There is no powerful parliament. We are delivered to secrecy.

Let us take one example: **The European Arrest Warrant**. The German Parliament was against it. It was considered very bad law. That is what Siegfried Kauder said in the Bundestag, the German Parliament.

He called the Arrest Warrant TOHUWABOHU, that means “*without form, and void*”. See *Genesis 1:1-2*, in Hebrew and English.

In the Netherlands, the “Standing Committee” which counsels the government was very critical. The German “Verfassungsgericht” - the Constitutional Court, had very critical notes. In Italy a judge wrote a paper. His name is Carlo Alberto Agnoli. The title is “*The European Arrest Warrant. The shortest way to Tyranny*”.

Perhaps you think the European Arrest Warrant has nothing to do with canon law. You could be wrong. Remember that the Inquisition was based on canon law and canon law is based on Catholic theology. The Church Court never punished crime, it punished *thinking*. One of the 32 special crimes is

“Racism and Xenophobia”. That is number 17, Agnoli points to the fact that in Europe on April 23, 2002, in Column 209, Xenophobia was defined as “the belief in race, colour, descent, religion or belief, national or ethnic origin as a factor determining aversion to individuals or groups”.

So on basis of belief or religion you can be arrested. This is *thought crime*. In the ‘Daily Telegraph’ Philip Johnston headed his article “Britons face extradition for “thought crime” on net”. (Febr. 18, 2003).

That was the very essence of the Inquisition.

To make it very short - we in Europe are building a replica of the Middle Ages. All the judicial ingredients are present.

Then really, we can say “the past is always present”. Or as the German says: “The past is never dead, it is not even past”.

Wim Wiggers.

EUROPE IN MYTHOLOGY

Europa was the daughter of the King Agenor of Sidon. She had the continent of Europe named after her. Somewhat miraculously Hera was distracted during her affair with Zeus and never punished her for it.

One night Europa had a dream. In this dream two continents, which were in the forms of women were arguing over Europa. Asia maintained that since Europa had been born in Asia she belonged to it. The other continent, which was nameless, said that her birth was not important, that Zeus would give her to it.

It was early morning, disturbed by the dream Europa did not go back to sleep. She summoned her companions, who were all daughters of nobility and of her age. It was a beautiful day and they went off gathering flowers by the sea. Zeus noticed this charming group, particular Europa, who was the prettiest of the maidens. Some say that Eros, induced him into action with one of his darts. Although, Zeus often made due with self motivation. In any case, Zeus appeared to the group as a white bull. A white bull more beautiful than any other. A bull that smelt of flowers, and lowed musically. A bull so obviously gentle that all the maidens rushed to stroke and pet it.

The bull laid down in front of Europa. She slid on to his back. Instantly, the bull charged off, plunging into the sea, and began to swim rapidly from the shore. Europa saw that a procession had joined them, Nereids riding dolphins, Triton blowing his horn, even Poseidon. Form this she realized that the bull must be a god. She pleaded with him to pity her. Zeus spoke to her and explained his love. He took her to Create, where he had been raised. He promised that she would bear him many famous sons. Her sons included Minos I and Rhadamanthus.

THE PAPACY A – NATION STATE

Church and State, Catholic Encyclopedia

Introduction

This article comes from the Catholic Encyclopedia in the Internet. The title of it is “State and Church”... We changed the title into “Perfect Societies”. According to Catholic doctrine the Church is just as the State a perfect society. This does not mean that the society is perfect, its meaning is that just as the State the Catholic Church is a “nation State”, not a church in the Protestant understanding. The Catholic Church has an executive, juridical and legislative power invested in the pope. The Catholic Church has therefore in their own estimation full juridical power over the citizens which are subject to her. You are born into the juridical power of the Catholic Church just as you are born into the nation State. You enter the Catholic Church by baptism, you enter the jurisdiction of the Catholic Church by birth. That is the situation according to Catholic doctrine.

“According to contemporary Catholic doctrine is the (Catholic) church founded by Christ and by Christ the church is governed. From this is derived the thought that the Roman Catholic Church is a “perfect” nation - state as is sovereign society (societas perfecta). *Kirchenrecht II*, Rudolph Sohm, pg. 19.

The article makes it very clear that the jurisdiction of the Church is higher than the jurisdiction of the State.

Catholic theologians compare their doctrine of society to body and soul. The soul is the Church and the body the State. The soul should rule over the body so the Church rules over the State. In Catholic doctrine Christian society is an ongoing process of the incarnation: one person, Christ, having two natures, not mixed, not separated, not changed, not divided. So society is, Church and State not mixed, not divided, not separated, not changed”. *Das Erwachen der katholischen Kirche im Anfang des XIX Jahrhunderts*. Dr. J. Pascher, Pg. 36.

In Catholic theology the church is the living Christ Himself. This is the basis for their striving for world dominion. *Die katholische Staatslehre*, Prof. D. Kurt Dietrich Schmidt, p. 5-6.

This Catholic Church is ruled by canon law or ecclesiastical law. This canon law has its foundation in (Catholic) theology.

CHURCH AND STATE

The Church and the State are both perfect societies, that is to say, each essentially aiming at a common good commensurate with the need of mankind at large and ultimate in a generic kind of life, and each **juridicially competent to provide all the necessary and sufficient means thereto.** The State is ethically demonstrated to be such, and the Church has a like demonstration from the theology of Christian Revelation. By reason of coexistence on the earth, community of subjects, and a need in common of some of the same means of activity, **it is inevitable that they should have mutual relations in the juridical order.** To declare these relations in brief from an ethical viewpoint, which is the scope of the present article, it will be necessary to state:

- I. The basis of their respective rights;
- II. The range of the their respective jurisdictions;
- III. Their mutual corporate relation;
- IV. Counter theories.

I. THE BASIS OF RIGHTS

All rights and duties on earth come ultimately from God through the Divine Law, either natural or positive. The character of our natural rights and duties is determined by the purpose to which the Creator shaped the nature of man, and natural knowledge of them is acquired by human reason from the aptitudes, tendencies, and needs of nature. Duties and rights descending from positive Divine Law are determined by some additional purpose of God, over and above the exigencies of human nature, and are to be learned only from Divine Revelation, either in its explicit declaration or its rational content. Man has one ultimate purpose of existence: eternal happiness in a future life. But man also has a twofold proximate purpose: to earn his title to eternal happiness and to attain to a measure of temporal

happiness consistent with the prior proximate purpose. The State is a natural institution, whose powers, therefore, come from the natural law and are determined by the character of the natural purpose of the State plus what ever limitation God, has, because of qualifications in the last end of man, ordained in the Divine Positive Law. The Church is a positive institution of Christ the Son of God, whose powers, therefore, are derived from the Divine Positive Law and are determined by the nature of the purpose He has assigned to it, plus whatever further concession He has made to facilitate the accomplishment of that purpose. In any consideration of the mutual relations of Church and State the above propositions are fundamental.

The goal of the State is the temporal happiness of man, and its proximate purpose the preservation of external juridical order and the provision of a reasonable abundance of means of human development in the interests of its citizens and their posterity. Man himself however, as we have said, has a further goal of perfect happiness to be realized only after death, and consequently a proximate purpose to earn in this life his title to the same. In the pursuit of this latter purpose, speaking in the abstract, he made a natural right to constitute a social organization taking over the worship of God as a charge peculiarly its own. In the concrete however, i.e., as a matter of fact, God by positive law has vacated this natural right and established a universal society (the Church) for Divine worship and the securing of perfect happiness in the hereafter. God, furthermore, has appointed for man a destiny which cannot be attained by mere natural means, and consequently God has conceded to man additional means commensurate with this ultimate purpose, putting these means at the disposal of man through the ministration of the Church. **Finally, He has determined the form of external public worship to be rendered, centring it about a sacrifice, the efficacy of which is from itself, being, as it is, a repetition of the Sacrifice of Calvary.** The goal, then, of the Church is the perfect supernatural happiness of man; its proximate purpose, to safeguard the internal moral order of right and wrong; and its external manifestation, to care for Divine worship and minister to man the supernatural means of grace. The State, then, exists to help man to temporal happiness the Church, to eternal. Of these two purposes the latter is more ultimate, man's greater good, while the former is not necessary for the acquisition of the latter. The dominating proximate purpose of man must be to earn his title to eternal salvation: for that, if needs be, he must

rationally sacrifice his temporal happiness. It is clear, therefore, that the purpose of the Church is higher in the order of Divine Providence and of righteous human endeavour than that of the State. **Hence, in case of direct collision of the two, God's will and man's need require that the guardian of the lower purpose should yield.** Likewise the argument for the extension of the powers of the higher society in a measure into the domain of the lower will not hold for such extension from the lower into the higher.

II. THE RANGE OF JURISDICTION

As there are many distinct **States** of equal natural right the subjects of each are restricted in number, and its government of them is **practically confined within the limits of its own territory. Within this territory it has full power to govern them**, defining their rights and in some cases restricting the exercise to these rights conferring purely civil rights and imposing civil duties, holding its citizens to a proper condition of public morality, owning property and qualifying private ownership of the same – all within the exigencies of the civic purpose of preserving external juridical order and promoting the prosperity of the citizens, and over all bound by the enactment of the Divine Law, both natural and positive. In a word, the State controls its own subjects, in the pursuit of its own natural end, in all things where a higher right does not stop it. A higher right will be a right existent because of an ulterior or a more essential destiny of man than the purpose which civil society pursues for him. The Church has the right to preach the Gospel everywhere, willing or nilling any state authority, and so to secure the rights of its members among the subjects of any civil polity whatever. **The Church has the right to govern her subjects wherever found, declaring for them moral right and wrong**, restricting any such use of their rights as might jeopardize their eternal welfare, conferring purely ecclesiastical rights, acquiring and holding property herself, and empowering her subordinate associations to do the same – all within the limits of the requirements of her triple purpose, as laid down by the **Divine Positive Law**, of preserving the internal order of faith and morals and its external manifestation, of providing adequate means of sanctification for her members, and of caring for Divine worship, and over all bound by the eternal principles of integrity and justice declared in the **natural and positive Law of God.**

In all purely temporal subject-matter, so long as it remains such, the jurisdiction of the State over its own subjects stands not only supreme, but, as far as the Church is concerned, alone. Purely temporal matter is that which has a necessary relation of help or hindrance to man's eternal happiness. It is of two kinds: primarily it includes all human acts so related, and secondarily persons or external things as far as they are involved in such acts. In all purely spiritual subject-matter, so long as it remains such, **the jurisdiction of the Church over her ecclesiastical subjects obtains to the complete exclusion of the State; nor is the Church therein juridically dependent in any way upon the State for the exercise of its legitimate powers.** Purely spiritual subject-matter is primarily made up of human acts necessarily related as help or hindrance to man's eternal happiness, the last end of the Church, and at the same time indifferent in themselves as a help or hindrance to man's temporal happiness, secondarily it extends to all persons and external objects as involved in such acts. **In all subject-matter not purely temporal, but at the same time both spiritual and temporal in character, both jurisdictions may enter, and so entering give occasion to collision, of which there must be a principle of solution. In case of direct contradiction, making it impossible for both jurisdictions to be exercised, the jurisdiction of the Church prevails, and that of the State is excluded.** The reason of this is obvious: He cannot contradict Himself; He cannot authorize contradictory powers. His real will and concession of power is determined by the higher purpose of His Providence and man's need, which is the eternal happiness of man, the ultimate end of the Church. **In view of this end God concedes to her the only authority that can exist in the case in point.**

In a case where there is no direct contradiction but a possibility of both jurisdictions being exercised without hurt to the higher, though neither jurisdiction is voided, and they both might, absolutely speaking, be exercised without mutual consultation, practically here is a clear opening for some adjustment between the two, since both jurisdictions are interested in avoiding friction. Though concordats were not devised precisely for this purpose, they have in many cases been used for such adjustment. Consistently with the superiority of essential purpose indicated above, **the judicial decision as to when a question does or does not involve spiritual matter, either purely or in part, rests with the Church. It cannot lie with the State, whose jurisdiction, because of the inferiority of its ultimate end and proximate purpose, has not such**

judicial faculty in regard to the subject-matter of a jurisdiction which is as far above its own as the ultimate end and proximate purpose thereof is above that of the State. In analogous fashion every higher court is always judge of its own jurisdiction as against a lower.

All the above is matter of principle, argued out as a question of objective right, and it supposes that the jurisdiction is to be applied through the respective subjects of the same. In point of fact the duty of submission in a citizen of a State to the higher jurisdiction of the Church does not exist where the citizen is not a subject of the Church, for one such the Church claims no governing power. It may also be by accident subjectively obscured in one who, though in point of right the Church's subject, in good faith fails, through an erroneous conscience, to recognize this fact, and, by consequence, the Church's right and his own duty. The subject of the State has been made fairly clear by human law and custom; but the frequent rebellion, continued through the centuries, of great numbers of the Church's subjects has confused in the mind of the non-Catholic world the notion of who is by revealed law a subject of the Church. **The juridical subject of the Church is every human being that has validly received the Sacrament of Baptism.** This birth into the Church by baptism is analogous to the birth within the territory of a State of the offspring of one of its citizens. However, this newborn subject of the State can, under certain circumstances, renounce his allegiance to his native State and be accepted as the subject of another. **Not so one born into the Church by baptism: for baptism is a sacrament leaving an indelible character upon the soul, which man cannot remove and so escape legitimate subjection.** Yet, as in the State, a man may be a subject without full rights of citizenship; may even, while remaining a subject, lose those rights by his own act or that of his parents; so, analogously, not every subject of the Church is a member thereof, and once a member, he may lose the social rights of membership in the Church without ceasing to be its subject. For full membership in the Church, besides valid baptism, one must by union of faith and allegiance be in fellowship with her, and not be deprived of the rights of membership by ecclesiastical censure. **Hence, those validly baptized Christians who live in schism or, whether by reason of apostasy or of initial education, profess a faith different from that of the Church, or are excommunicated there from, are not members of the Church, though as a matter of objective right and duty they are still her subjects.** In practice the Church, while retaining her right over all

subjects, does not – except in some few matters not of moment here - insist upon exercising her jurisdiction over any but her members, as it is clear that she cannot expect obedience from those Christians who, being in faith or government separated from her, see no right in her to command, and consequently recognize no duty to obey. **Over those who are not baptized she claims no right to govern, though she has the indefeasible right to preach the Gospel among them and to endeavour to win them over to become members of Christ's Church and so citizens of her ecclesiastical polity.**

III. MUTUAL CORPORATE RELATION OF CHURCH AND STATE

Every perfect society must acknowledge the rights of every other perfect society; must render to it all duties consequent upon such rights; must respect its autonomy; and may demand the recognition of its own rights and the fulfilment of obligations arising there from. Whether one may also command such recognition and fulfilment is another question: one does not involve the other; thus, for instance, the United States may demand its rights of England, but cannot command England to acknowledge them **as the United States has no authority over England or any other nation.** Presiding from this for the moment, **the Church must respect the rights of the State** to govern its subjects in all purely temporal matters, and, if the subjects of the State are likewise subjects of the Church, must hold the latter to the fulfilment of their civil duties as an obligation in conscience. On the other hand, in principle, as a matter of objective duty, **the State is bound to recognize the juridical rights of the Church in all matters spiritual whether purely so or of mixed character, and its judicial right to determine the character of matters of jurisdiction, in regard, namely, to their spiritual quality. The State, furthermore, is bound to render due worship to God,** as follows from the same argument from the natural law which proves man's obligation to external worship, namely, that man must acknowledge his dependence upon God and this subjection to Him in every capacity in which he is so dependent, and therefore not only in his private capacity as an individual but also in that public, corporate capacity whereby he and his fellow citizens constitute the State. Due worship, in the present economy, is that of the religion of Christ, entrusted to the care of the Church. **The State must also protect the Church in the exercise of her functions,** for the

reason that the State is bound to protect all the rights of its citizens, and among these their religious rights, which as a matter of fact would be insecure and fruitless were not the Church protected. **The State is even under obligation to promote the spiritual interests of the Church;** for the State is bound to promote whatever by reaction naturally works for the moral development of its citizens and consequently for the internal peace of the community, and in the present condition of human nature that development is necessarily dependent upon the spiritual influence of the Church.

There being, then, an obligation upon the State as such, arising out of the Natural and Positive Law, to render public Divine worship in accordance with the guidance of the Church, in whose charge Christ has placed the worship due in the present order of things, an obligation also to protect the Church and to promote her interests, the Church clearly has a perfect right to demand the fulfilment of these duties, since their neglect would infringe her right to the benefit proceeding from the fulfilment. To have the further right to command the state in their regard implies that the Church has a right to impose the obligations of her authority in their regard, to exact them authoritatively from the State. Now in purely temporal matters, while they remain such, the Church cannot command the State any more than she can command the subjects of the State, even though these are at the same time her own subjects. But in spiritual and mixed matters calling for corporate action of the State, the question depends upon whether the physical persons who make up the moral personality of the State are themselves subjects of the Church. **In case they are, then the Church has in consequence jurisdiction therein over the State.** The reason is that owing to the supremacy in man's life purposes of his eternal happiness, man in all his capacities, even of a civil nature, must direct his activities so that they shall not hinder this end, and where action even in his official or civil capacity is necessary for this ultimate purpose he is bound to place the action: moreover, in all these activities so bearing on this end, since they are thereby spiritual matter, every subject of the Church is under the jurisdiction of the Church. If, then, the physical persons constituting the moral person of the State are the subjects of the Church, they are still, in this joint capacity, subject to her in like matters, namely, in the fulfilment of all civil duties of the State towards religion and the Church. The Church, because of the uselessness of her insistence, or because of greater evils to

be so avoided, may waive the exercise of this **jurisdiction**; but in principle it is hers.

In practice we distinguish, from a religious point of view, four kinds of civil authority.

* First, in a Catholic State, in which, namely, the physical persons constituting the moral personality of the State are Catholic, the Church's jurisdiction in matters of her competency is in every way complete.

* Secondly, in a non-Catholic State, for instance that of the Turks, where the constituency is not even baptized, the Church claims no jurisdiction over the State as such: the foundation of such jurisdiction is lacking.

* Third, in a **Christian** but non-Catholic State, where the constituency, though by baptism subjects, are not members of the Church *per se* the **jurisdiction of the Church would stand**, but *per accidents* its exercise is impossible.

* Fourth, a mixed State, one, namely, the constituents of whose moral personality are necessarily of diverse religions, practically lies outside the reach of **ecclesiastical jurisdiction**, since the affiliation of some of the constituents could not make a subject of the Church out of the moral personality constitutionally made up of elements not all of which share such affiliation. The subordination here indicated is indirect: not that the Church does not directly reach spiritual and mixed matters, but that in their regard it *directly* reaches only its immediate subjects, and *indirectly*, through them, the State which they constitute.

Again, the State as such does not in such matters directly act for the supernatural purpose of the Church (the eternal happiness of its subjects), but for its own temporal purpose inasmuch as such action will make for their temporal happiness; and so it acts for the Church by indirection.

There is no parallel argument to give the State indirectly jurisdiction over the Church in matters purely temporal, and therefore of the State's sole competency. The Church is universal and cannot be a member or subject of any particular State. Even were there but one universal State in the world, the Church would not be a member thereof,

for its members are not citizens of the State to the extent that in every capacity they must submit their activities for the purpose of the State, particularly not the activities concerned directly with the higher purpose of eternal life. Moreover, the Church is not constituted merely by the exercise of the natural rights of the men who are citizens of the State, but by the supernatural endowment of the Divine Positive Law. Finally, the Church in its corporate capacity is not bound to seek the temporal happiness of her members as a means to their eternal welfare, while the State as such is bound to Divine worship and to the protection and promotion of the Church in the interests of religion, because this is a necessary element involved in the perfect temporal happiness of the Catholic citizen. The State, therefore, has not, either in temporal or in spiritual things, any authority over the Church as such, however much it may have in things purely temporal over the members of the Church, who are subjects of the State. The State can, as was said above, demand its rights of the Church: it cannot command them.

IV. UNION OF CHURCH AND STATE

There is some confusion in the public mind about the meaning of the union of Church and State. The essential idea of such union is a condition of affairs where a State recognizes its natural and supernatural relation to the Church, professes the Faith, and practises the worship of the Church, protects it, enacts no laws to its hurt, while, in case of necessity and at its instance taking all just and requisite civil measures to forward the Divinely appointed purpose of the Church – in so far as all these make for the State's own essential purpose, the temporal happiness of its citizens. That this is in principle the normal and ethically proper condition for a truly Catholic State should be evident from the religious obligations of the Catholic State as above declared. That in practice it has in the past sometimes worked evil to both Church and State, in an accidental effect consequently upon the frailty and passion of the human instruments then ruling in Church, or in State, or in both. As a partial attempt at security against such evil consequences, the Church has for centuries established concordats with Catholic States; but even these have not always saved the situation. For concordats, like all other agreements, however firm in principle, are in practice only as strong as the conscientiousness of those whose duty it is to observe them. The conscienceless can destroy them at pleasure. Between the Church and a non-Christian or a **Christian**, but non-

Catholic, State a condition of separation, as meaning a condition of indifference of the State towards the Church, is to be expected, as the foundation of the specific obligations involved in union are wanting. Such a separation for a Catholic State would be criminal, as ignoring the sacred obligations of the State.

For a State once Catholic and in union with the Church to declare a separation on the ground that it has ceased to be Catholic is an action which as a matter of objective right has no standing; for in objective truth the duty of the people would be to regain their lost faith, if they had really lost it, or to live up to it if in reality it were not lost. But on the supposition that the essential constituency of a State has been transformed from Catholics to those, who, not by hypocritical pretence, but in the fullness of good faith, are not Catholics – a condition easier of supposition than of realization – the State through such mistaken conscience might seek for separation without subjective fault, provided the separation were effected without the summary dissolution of existing contracts, without the violation of vested rights of the Church or its members. It may be noted in passing that in the recent instances of separation in France and Portugal, i.e., the breaking up of an existing condition of union between Church and State, the separation had been effected where the bulk of the people is still Catholic, has been conducted in violation to rights and contracts both natural and positive, and has resulted, as it was aimed to do, in an attempt at complete subsection of the Church and of all civil subjects in the matters of religion to the tyranny of administrations which scoff at all religion. That in States whose personality is constitutionally made up of every complexion of religious faith, much of it in its diversity sincere, there should be a governmental abstention from any specific denominational worship or profession of belief, and a general protection and encouragement of the individual in the practice of religion according to his own religious principles within the limits of the Natural Law, or of a general acceptance of Christianity, seems a practical necessity of evil times, when unity of faith is so widely lacking, and a *modus vivendi* which, if sincerely carried out, seems to work as little harm to objective right as can be expected in a condition of consciences sincerely differing in the matter of right established by the Divine Positive Law.

Catholic Encyclopedia.

CANON LAW

5.1

ROMAN LAW

Prof. C.P. Sherman (Yale)

St. Augustine's legal mind forged the weapons of all future ecclesiastical persecution by declaring that the death of the soul is worse than liberty of error and that the heterodox should be *compelled* to conform. When the time of Theodosius II is reached, to deviate even slightly from orthodoxy was punished as a crime. *And the code of Justinian insists that religious unity must be maintained at all costs – that principle which caused Europe in subsequent centuries to suffer greatly. ...*

Justinian begins his Code by formulating an Imperial creed of the Trinity, and by hurling Imperial anathemas against heretics. Justinian asserted a majestic superiority over the clergy and canonical jurisdiction, although he makes the bishops Imperial judicial officers for certain matters; for instance, the guardians of lunatics swore before the bishop on the Gospels to administer their trust with fidelity. ...

Christianity finally put into practice the old Roman theory, which it had previously fought, that the religion of the State must be that of the people. But the bishop's court had no criminal jurisdiction: heresy was punished by the civil courts. ...

The devotion of the clergy to the Civil law of Rome was marked with great fervor during the early medieval period following the disruption of the lineal Roman Empire of the West in A.D. 476. More than this: **during the entire Middle Ages the clergy, whether of Germanic origin or not, never submitted to any of the barbarous Teutonic law. The Roman law was always the personal law of the clergy; it followed them**

wherever they went. As far as ecclesiastical courts obtained a foothold or increased their jurisdiction, they always applied the refined principles of the Roman law. This body of church law – to a very large degree secular – received after a time the generic name of Canon law.

Furthermore, as the Papacy increased in strength, the entire organization of the Roman Catholic Church became pervaded with and was modelled on the spirit and system of the Imperialistic government of the old Roman Empire. **The Papacy was and is today in many respects a historical continuation of the ancient Roman Empire, - “the ghost of the old Empire” is Hobbes’ famous characterization of the Papacy.** How enormously great has been the influence of Roman law upon the Roman Catholic Church is to be seen in the latter’s present centralization of power, in the absolute superiority and supremacy of the Pope, in its administration so akin to that of the Roman Empire of Constantine’s time, and in its universal system; of church law.

The Corpus Juris Canonici and modern Canon Law. One of the great although indirect results of the Bologna revival of Roman law study was the full maturing of the Western Roman Canon Law, which in the 12th century had become largely codified, - the complete codification receiving the name of Corpus Juris Canonici. **This code of the Latin Church was the supreme ecclesiastical law of all Western Europe, in force long before the 16th century Protestant Reformation divided the Roman Church and Western Christendom.** The modern stage of the Canon Law may be regarded as dating from the formation of the Corpus Juris Canonici. But the modern Canon Law should not be limited to the Roman Catholic Church alone; **it includes also the ecclesiastical law of all Protestant churches since the Reformation. If the Canon Law of the Western Latin Church be examined, the Corpus Juris Canonici manifestly is a counterpart or reflection of the Corpus Juris of Justinian in name, form, substance, and authority.**

The Corpus Juris Canonici is a counterpart of the Justinian codification as to name. The appellation “Corpus Juris Canonici” to denote the law of the Western Roman church was officially sanctioned in the 16th century by Gregory XIII. But this expression was in common use much earlier; and from the middle of the 13th century it was employed in

sharp contradiction to the Roman law, collectively described as the Corpus Juris Civilis.

The Corpus Juris Canonici is a counterpart of the Justinian codification as to form. Parts of the Corpus Juris Canonici. In imitation of Justinian’s monumental work, the Corpus Juris Canonici is arranged in four parts: Decree, Decretals, Extravagantes, and Institutes, which is their chronological order.

As long as the Papal supremacy was recognized, the Canon law possessed unlimited power and formed the basis of the ecclesiastical law of every country. And since the decline of the Papal power it has generally retained the force of subsidiary law in Protestant States.

Excerpts taken from: *Roman Law in the Modern World*, Charles Phineas Sherman, D.C.L. (Yale). Second Edition, Vol. I. New Haven Law Book Co., New Haven, Conn. USA, 1922.

5.2

CHURCH (CANON) LAW

Prof. A. Erler

The **meaning** of the Corpus Juris Canonici is not exhausted by representing itself as an internal, autonomous church law. The emphasis was to be in competition with the *secular* law of its time. **“With the papal code the world received a second Corpus Juris, which at the same time claimed it was *reforming* the old Imperial Roman Corpus Juris Civilis for the time present.”** (Sohm). Thus Canon law was first *from* the Church, yet by far not alone the law *for* the Church: but world dominion was its demand, equivalent to the demand of the Church for world dominance. *Kirchenrecht*, Adalbert Erler, Prof. University Frankfurt a. M., C.H. Beck’sche Verlagsbuchhandlung, München 1975.

5.3

JUSTINIAN AND CHURCH LAW

Prof. P. Constantin Hohenlohe

The final victory over all other occurrences of Christianity Catholicism got from its union with the Roman state power. Church law as we find it in Corpus Juris Civilis is not received by Justinian, it was yet to be created. When Justinian was composing his Corpus Juris Civilis no independent Catholic church law was then in existence.

The foremost supporter of this interpretation is Rudolph Sohm, whose influence to modern science was crucial. *Einfluss des Christentums auf das Corpus Juris Civilis*, Univ. Prof. P. Dr. Constantin Hohenlohe, Wien 1937, Holder-Pichler-Tempsky A.G. K.V.

5.4

CANON LAW

New Schaff – Herzog Encyclopedic Dictionary, Vol. I

The canon law, in the sense thus assigned to the term, contains a large number of regulations pertaining to matters which, according to modern constitutions, have been withdrawn from ecclesiastical jurisdiction and placed under the ordinary secular tribunals. These provisions have thus ceased to be operative. They include the relations between Church and State, the legal status of heretics, ecclesiastical jurisdiction, etc. The Roman Catholic Church, it is true, still maintains in theory the permanent validity of these enactments, and claims the same pre-eminent power and independence of the State as it possessed in the Middle Ages. Since the Reformation and the upbuilding of modern nationalities, however, **the principle of the unity of jurisdiction and the authority of the law has proved irreconcilable with these claims.** The freedom and independence conceded to the Church in the ordering of its own internal affairs by no means involves the absolute supremacy and validity of the canon law when it comes into conflict with the civil law, or releases the ecclesiastical authorities from their responsibility and their obedience to the State; for the freedom of the Church, like all other freedom in the modern world, is a freedom within the bounds of the law. But while the Roman Catholic Church appeals to divine mission and inalienable rights in support of its protest against these limitations, and has

occasionally provoked serious conflicts by insistence upon its position in this matter. Protestantism from the very start took a much more restricted view of the extent of ecclesiastical operations and of the authority of its own law, sometimes, where it is established, working directly with the State, but always submitting without question to civil ordinances. **The difference is seen again in the fact that while Roman Catholicism recognizes only one Church, and thus only one valid church law, Protestantism, though holding its own interpretation of the Christian faith for the true one, does not claim exclusive jurisdiction over all creatures, and concedes to the various bodies which it conceives as forming an invisible unity the right to their own independent action in matter of legislation.** *The New Schaff-Herzog Encyclopedia of Religious Knowledge*, ed. by Samuel Macauley Jackson, D.D., LL.D. Vol. II, Basilica – Chambers, Baker Book House, Grand Rapids, Michigan, 1949.

5.5

THE HISTORY OF CANON LAW

New Revised Encyclopedic Dictionary Vol. I

Before the Reformation: A community, civil or religious, no sooner comes into existence when it requires rules for its government, and those first formed require to be modified and developed and added to during the whole period that the community exists. Hence the first germs of canon law are to be sought for in apostolic times, whilst its complete development took place at the period when the power of the papacy reached its height. The oldest canons are called the apostolic canons. **The canons of the Council of Nicæa (A.D. 325), Constantinople (A.D. 381), Ephesus ((A.D. 431), and Chalcedon (A.D. 451), obtained civil sanction by decree of Justinian.** Till the twelfth century the canon law consisted mainly of these canons collected, together with the capitularies of Charlesmagne and the decrees of the popes, from Siricius A.D. 398 to Athanasius VI, A.D. 1154.

In 1114 Ivo, Bishop of Chartres, commenced to collect the decrees made by the popes and the cardinals: Gratian a Benedictine monk, methodised the collection, and published it in 1150. There followed the Decretals of Gregory IX, in A.D. 1234 (Decretal). Next came the “Sext” of Boniface

VIII A.D. 1298 (Sext). The Clementines or Constitutions of Clement V, A.D. 1308, Clementine, and the Extravagante of John XXII A.D. 1317 (Extravagante). These, with some more recent "Extravagantes" constitute the "Corpus Juris Canonici", the body of canon law. Some lawyers graduated in canon others than in civil laws, while not a few did so in both. As the fully developed canon law greatly exalted the ecclesiastical over the civil power it was never cordially accepted in English Parliament. *New Revised Encyclopedic Dictionary*, Vol. I.

1933 CANON LAW AND THE PREPARATION FOR THE SECOND WORLD WAR

Hitler's Pope

John Cornwell

Pacelli's Concordat and Hitler

The acquiescence of the German people in the face of Nazism cannot be understood in its entirety without taking into account the long path, beginning as early as 1920, to the Reich Concordat of 1933, Pacelli's crucial role in it, and Hitler's reasons for signing it. The negotiations were conducted exclusively by Pacelli on behalf of the Pope over the heads of the faithful, the clergy, and the German bishops. **(When Hitler became Pacelli's partner in negotiations, the concordat thus became the supreme act of two authoritarians,** while the supposed beneficiaries were correspondingly weakened, undermined, and neutralized.) Diplomatic correspondence of the period, to the end of 1929, shows Gasparri and Pacelli signing most of the documents, with the pontiff playing Moses to Gasparri's Aaron. But, as will be apparent, the strategy and the style, particularly from 1930, were shaped and directed by Pacelli himself.

For centuries, Vatican concordats had enshrined a variety of agreements between the Holy See and secular governments, securing rights to define doctrine; conditions of bestowing sacraments; rights to worship and education; laws concerning property, seminaries, clerical and episcopal appointments and salaries; marriage and annulment law. The terms of concordats before the First World War varied from country to country and even, as with Germany, from regional state to regional state, each treaty being tailor-made to local circumstances, customs, and secular patronage.

In the light of the 1917 code, however, the Vatican's concordat policy was transformed. Thence forward the concordat was to become an instrument of consensus by which the lives of bishops, clergy, religious, and faithful were regulated, top-down, everywhere and anywhere in the world on an

equal basis. In addition, the concordat assumed the papacy's right to bind the faithful, without consultation, to whatever conditions it saw fit for them to embrace in the course of local negotiations.

Thirteen years on, one man, Adolf Hitler, was to stand between Pacelli and his dreams of a super concordat that would impose the full force of canon law equally on all Catholics in Germany. Anticipating that final negotiation, **the principal condition imposed by Hitler in 1933 was to be nothing less than voluntary withdrawal of German Catholics from social and political action as Catholics, including the voluntary disbanding of the Center Party, by then the sole surviving visible democratic party in Germany. This abdication from political Catholicism was to be implemented by Pacelli himself** (who had risen by that time to Cardinal Secretary of State in the Vatican), using the considerable powers of persuasion at his command.

Pacelli's remarkable agenda was impelled, as we have seen, by an almost messianic conviction through three generations of the Pacelli family, that the Church could survive and remain united in the modern world only by strengthening papal authority through the application of law. Pacelli's concordat policy focused not so much on the interests of the German Church but on the pyramidal model of Church authority that had been in the making since Pio Nono. Unlike Scheler and Erzberger, Pacelli was not concerned about the fate of parallel faiths, religious communities or institutions, or about human rights and social ethics. Complaints against Nazi regime by the German episcopate, when they came, were mostly preoccupied with transgressions against Catholic interests cited in the terms of the concordat, and were funnelled through the Vatican.

Nothing could have been further from the notion of strength through organic, self-determining, pluralist Catholicism acting as a rallying point for inter-confessional Christian democracy. Nothing could have been better designed to deliver the powerful institution of the Catholic Church in Germany into the hands of Hitler. In the immediate aftermath of the Great War, however, the contrasting aspirations of Rome on the one hand and the German Catholic leadership on the other, and their remote consequences, had yet to be grasped. *Hitler's Pope, The Secret History of Pius XII*, pg. 84-85. John Cornwell, Viking publ. By the Penguin Group, New York, USA, 1999.

CANON LAW - THE BASIS FOR THE INQUISITION

7.1

CANON LAW THE BASIS FOR THE INQUISITION OF THE MIDDLE AGES

H.C. Lea

The public opinion of the ruling classes of Europe demanded that heresy should

be exterminated at whatever cost, and yet with the suppression of open resistance the desired end seemed as far off as ever. Bishop and legate were alike unequal to the task of discovering those who carefully shrouded themselves under the cloak of the most orthodox observance; and when by chance a nest of heretics was brought to light, the learning and skill of the average Ordinary failed to elicit a confession from those who professed the most entire accord with the teachings of Rome. In the absence of overt acts it was difficult to reach the secret thoughts of the sectary. Trained experts were needed whose sole business it should be to unearth the offenders and extort a confession of their guilt. As this necessity became more and more apparent two new factors contributed to the solution of the long-vexed problem.

The first of these was the organization of the Mendicant Orders, whose peculiar fitness for the work which had outgrown the capacity of the episcopal courts might well make their establishment seem a providential interposition to supply the Church of Christ with what it most sorely needed. As the necessity grew apparent of special and permanent tribunals devoted exclusively to the widespread sin of heresy, there was every reason why they should be wholly free from the local jealousies and enmities which might tend to the prejudice of the innocent, or the local favoritism which might connive at the escape of the guilty. If, in addition to this freedom from local partialities, the examiners and judges were men specially trained to the detection and conversion of the heretic; if, also, they had by irrevocable vows renounced the world; if they could acquire

no wealth and were dead to the enticements of pleasure, every guarantee seemed to be afforded that their momentous duties would be fulfilled with the strictest justice – that while the purity of the faith would be protected, there would be no unnecessary oppression or cruelty or persecution dictated by private interests and personal revenge. Their unlimited popularity was also a warrant that they would receive far more efficient assistance in their arduous labors than could be expected by the bishops, whose position was generally that of antagonism to their flocks and to the petty seigniors and powerful barons whose aid was indispensable. That the Mendicant Orders, to which this duty thus naturally fell, were peculiarly devoted to the papacy, and that they made the Inquisition a powerful instrument to extend the influence of Rome and destroy what little independence was left to the local churches, became subsequently doubtless an additional reason for their employment, but could scarce have been a motive in the early tentative efforts. Thus to the public of the thirteenth century the organization of the Inquisition and its commitment to the children of St. Dominic and St. Francis appeared a perfectly natural or rather inevitable development arising from the admitted necessities of the time and the instrumentalities at hand.

The other factor which promised success to the Church, in an organized effort to discharge the duty of persecution, was the secular legislation against heresy which at this period took form and shape. We have seen the spasmodic edicts of England and Aragon in the twelfth century, which have interest only as showing the absence of anterior penal laws. Frederic Barbarossa took no effective steps to give validity to the regulations which Lucius III. issued from Verona in 1184, though they purposed to be drawn up with the emperor's sanction. The body of customary law which de Montford adopted at Pamiers in 1212 of course disappeared with his short-lived domination. There had been, it is true, some fragmentary attempts at legislation, as when the Emperor Henry VI., in 1194, prescribed confiscation of property, severe personal punishment, and destruction of houses for heretics, and heavy fines for persons or communities omitting to arrest them; and this was virtually repeated in 1210 by Otho IV., showing how soon it had been forgotten. How little uniformity, indeed, there was in the treatment of heresy is proved by such stray edicts of the period as chance to have reached us. Thus in 1217 Nuñez Sancho of Rosellon decreed outlawry for heretics, and in 1228 Jayme I. of Aragon followed his example, showing that this could not have previously been customary. On

the other hand, the statutes of Pignerol in 1220 only inflict a fine of ten sols for knowingly shelter to Vaudois. Louis VIII. of France, just before his death, issued an *ordonnance* punishing this same crime with confiscation and deprivation of all legal rights, while the royal officials were ordered to inflict proper and immediate punishment on all who were convicted of heresy by the ecclesiastical judges. The statutes in force in Florence in 1227 required the bishop to act in conjunction with the podestà in all prosecutions for heresy, which was a serious limitation on the episcopal courts. In 1228 we hear of new laws adopted in Milan, at the instance of the papal legate, Goffredo, by which all heretics were banished from the territory of the republic, their houses torn down, the contents confiscated, their persons outlawed, with graduated fines for harboring them. A mixed secular and ecclesiastical inquisition was established for the discovery of heretics, and the arch bishop and podestà were to co-operate in their examination and sentence; while the latter was bound to put to death within ten days all convicts. In Germany, as late as 1231, it required the decision of King Henry VII. To determine the disposition of property confiscated on heretics, and allodial lands were allowed to descend to the heirs, in contradiction as we shall see, to all subsequent ruling.

To put in action any comprehensive system of persecution, it evidently was requisite to overcome the centrifugal tendency of medieval legislation, which finds its ultimate expression on free Navarre, where every town of importance had its special *fuero*, and almost every house its individual custom. Innocent III. endeavoured, at the Lateran Council of 1215, to secure uniformity by a series of severe regulations defining the attitude of the Church to heretics, and the duties which the secular power owed to exterminate them under pain of forfeiture, and this became a recognized part of canon law; but in the absence of active secular co-operation its provisions for a while remained practically a dead letter. It was reserved for the arch-enemy of the Church, Frederic II., to break down, throughout the greater part of Europe, the particularism of local statutes, and place the population at the mercy of such emissaries as the popes might send to represent them. It was requisite for him to acquire the favor of Honorius III. to secure his coronation in 1220; and when the inevitable rupture took place, it was still necessary for him to meet the charge of heresy so freely brought against him by manifesting special zeal in the persecution of heretics, though doubtless, if left to himself, philosophic indifference

would have led him to tolerate any form of belief that did not threaten disobedience to the ruler.

In a series of edicts dating from 1220 to 1239 he thus enacted a complete and pitiless code of persecution, upon the Lateran canons.

Those who were merely suspected of heresy were required to purge themselves at command of the Church, under penalty or being deprived of civil rights and placed under the imperial ban; while, if they remained in this condition for a year, they were to be condemned as heretics. **Heretics of all sects were outlawed;** and when condemned as such by the Church they were to be delivered to the secular arm to be burned. If, through fear of death, they recanted, they were to be thrust in prison for life, there to perform penance. If they relapsed into error, thus showing that their conversion had been fictitious, they were to be put to death. All the property of the heretic was confiscated and his heirs disinherited. His children, to the second generation, were declared ineligible to any positions of emolument or dignity, unless they should win mercy by betraying their father or some other heretic. All “credence’s”, fautors, defenders, receivers, or advocates of heretics were banished forever, their property confiscated, and their descendants subjected to the same disabilities as those of heretics. Those who defended the errors of heretics were to be treated as heretics unless, on admonitions, they mended their ways. The houses of heretics and their receivers were to be destroyed, never to be rebuilt. Although the evidence of a heretic was not receivable in court, yet an exception was made in favor of the faith, and it was to be held good against another heretic. All rulers and magistrates, present or future, were required to swear to exterminate with their utmost ability all whom the Church might designate as heretics, under pain of forfeiture of office. The lands of any temporal lord who neglected, for a year after summons by the Church, to clear them of heresy, were exposed to the occupancy of any Catholics who, after extirpating the heretics, were to possess them in peace without prejudice to the rights of the suzerain, provided he had offered no opposition. When the papal Inquisition was commenced, Frederic hastened, in 1232, to place the whole machinery of the State at the command of the inquisitors, who were authorized to call upon any official to capture whomsoever they might designate as a heretic, and hold him in prison until the

Church should condemn him, when he was to be put to death.

This fiendish legislation was hailed by the Church with acclamation, and was not allowed to remain, like its predecessors, a dead letter. The coronation-edict of 1220 was sent by Honorius to the University of Bologna to be read and taught as a part of practical law. It was consequently embodied in the authoritative compilation of the feudal customs, and its most stringent enactments were incorporated in the Civil Code. The whole series of edicts was subsequently promulgated by successive popes in repeated bulls, commanding all states and cities to inscribe these laws irrevocably in their local statute-books. It became the duty of the inquisitors to see that this was done, to swear all magistrates and officials to enforce them, and to compel their obedience by the free use of excommunication. In 1222, when the magistrates of Rieti adopted laws conflicting with them, Honorius at once ordered the offenders removed from office; in 1227 the people of Rimini resisted, but were coerced to submission; in 1253, when some of the Lombard cities demurred, Innocent IV. promptly ordered the inquisitors to subdue them; in 1254 Asti peacefully accepted them as part of its local laws; Como followed the example, September 10, 1255; and in the recension of the laws of Florence made as late as 1355, they still appear as an integral part. Finally, they were incorporated in the latest additions to the Corpus Juris as part of the canon law itself, and, technically speaking, they may be regarded as in force to the present day.

This virtually provided for a very large portion of Europe, extending from Sicily to the North Sea. The western regions made haste to follow the pious example. Coincident with the Treaty of Paris, in 1229, was an *ordonnance* issued in the name of the boy-king, Louis IX., giving efficient assistance by the royal officials to the Church in its efforts to purge the land of heresy. In the territories which remained to Count Raymond his vacillating course gave rise to much dissatisfaction, until, in 1234, he was compelled to enact, with the consent of his prelates and barons, a statute drawn up by the fanatic Raymond du Fauga of Toulouse, which embodied all the practical points of Frederic’s legislation, and decreed confiscation against every one who failed, when called upon, to aid the Church in the capture and detention of heretics. In the compilations and law books of the late half of the century we see the system thoroughly established as the law of the whole land, and in 1315 Louis Hutin formally adopted the edicts of Frederic and made them valid throughout France.

In Aragon Don Jayme I., in 1226, issued an edict prohibiting all heretics from entering his dominions, probably on account of the fugitives driven out of Languedoc by the crusade of Louis VIII. In 1234, in conjunction with his prelates, he drew up a series of laws instituting an episcopal Inquisition of the severest character, to be supported by the royal officials; in this appears for the first time a secular prohibition of the Bible in the vernacular. All possessing any books of the Old or New Testament, "in Romancio", are summoned to deliver them within eight days to their bishops to be burned, under pain of being held suspect of heresy. Thus, with exception of farther Spain and Northern nations, where heresy had never taken root, throughout Christendom the State was rendered completely subservient to the Church in the great task of exterminating heresy. And, when the Inquisition had been established, **the enforcing of this legislation was the peculiar privilege of the inquisitors**, whose ceaseless vigilance and unlimited powers gave full assurance that it would be relentlessly carried into effect.

Meanwhile zeal or jealousy led, in the confusion and uncertainty of this transition period, to the experiment, in several parts of Italy, of a secular Inquisition. In Rome, in 1231, Gregory IX. drew up a series of regulations which was issued by the Senator Annibaldo in the name of the Roman people. Under this the senator was bound to capture all who were designated to him as heretics, whether by inquisitors appointed by the Church or other good Catholics, and to punish them within eight days after condemnation. Of their confiscated property one third went to the detector, one third to the senator, and one third to repairing the city walls. Any house in which a heretic was received was to be destroyed, and converted forever into a receptacle of filth. "Credentes" were treated as heretics, while factots, receivers, etc., forfeited one third of their possessions, applicable to the city walls. A fine of twenty lire was imposed on any one cognizant of heresy and not denouncing it; while the senator who neglected to enforce the law was subject to a mulct of two hundred marks and perpetual disability to office. To appreciate the magnitude of these fines we must consider the rude poverty of the Italy of the period as described by a contemporary – the squalor of daily life and the scarcity of the precious metals, as indicated by the absence of gold and silver ornaments in the dress of the period. Not satisfied with the local enforcement of these regulations, Gregory sent them to the archbishops and princes throughout Europe, with orders to put them in execution in their respective territories,

and for some time they formed this basis of inquisitorial proceedings. In Rome the perquisition was successful, and the faithful were rewarded with the spectacle of a considerable number of burnings; while Gregory, encouraged by success, proceeded to issue an decretal, forming the basis of all subsequent inquisitorial legislation, by which condemned heretics were to be abandoned to the secular arm for exemplary punishment, those who returned to the Church were to be perpetually imprisoned, and every one cognizant of heresy was bound to denounce it to the ecclesiastical authorities under pain of excommunication.

At the same time Frederic II., who desired to give Rome as little foothold as possible in his Neapolitan dominions, placed the business of persecution there in the hands of the royal officials. In his Sicilian Constitutions, issued in 1231, he ordered his representatives to make diligent inquisition into the heretics who walk in darkness. All, however slightly suspected, are to be arrested and subjected to examination by ecclesiastics, and those who deviate ever so little from the faith, if obstinate, are to be gratified with the fiery martyrdom to which they aspire, while any one daring to intercede for them shall feel the full weight of the imperial displeasure. As the legislation of a freethinker, this shows the irresistible weight of public opinion, to which Frederic dared not run counter.

Nor did he allow this to remain a dead letter. A number of executions under it took place forthwith, and two years later we find him writing to Gregory deploring that this had not been sufficient, for heresy was reviving, and that he therefore had ordered the justiciary of each district, in conjunction with some prelate, to renew the inquisition with all activity; the bishops were required to traverse their dioceses thoroughly, in company, when necessary, of judges delegated for the purpose; in each province the General Court held two assizes a year, when heresy was punished like any other crime. Yet, so far from praising this systematized persecution, Gregory replied that Frederic was using pretended zeal to punish his personal enemies, and was burning good Catholics rather than heretics. *The Inquisition of the Middle Ages, Its Organization and Operation*, Henry Charles Lea, p. 14-22.

7.2

THE SUBJECT MATTER OF THE COURT

The duty of the inquisitor, moreover, was distinguished from that of the ordinary judge by the fact that the task assigned to him was the impossible one of ascertaining **the secret thoughts and opinions of the prisoner. External acts were to him only of value as indications of belief, to be accepted or rejected as he might deem them conclusive or illusory. The crime he sought to suppress by punishment was purely a mental one – acts, however criminal, were beyond his jurisdiction.** The murderers of St. Peter Martyr were prosecuted, not as assassins, but as fautors of heresy and impeters of the Inquisition. The usurer only came within his purview when he asserted or showed by his acts that he considered usury no sin; the sorcerer when his incantations proved that he preferred to rely on the powers of demons rather than those of God, or that he entertained wrongful notions upon the sacraments. Zanghino tells us that he witnessed the condemnation of a concubinary priest by the Inquisition, who was punished not for his licentiousness, but because while thus polluted he celebrated daily mass and urged in excuse that he considered himself purified by putting on the sacred vestments. **Then, too, even doubt was heresy;** the believer must have fixed and unwavering faith, and it was the inquisitor's business **to ascertain this condition of his mind. External acts and verbal professions were as naught.** The accused might be regular in his attendance at mass; he might be liberal in his oblations, punctual in confession and communion, **and yet be a heretic at heart.** When brought before the tribunal he might profess the most unbounded submission to the decisions of the Holy See, the strictest adherence to orthodox doctrine, the freest readiness to subscribe to whatever was demanded of him, and yet be secretly a Catharan or a Vaudois, fit only for the stake. Few indeed, were there who courageously admitted their heresy when brought before the tribunal, and to the conscientious judge, eager to destroy the foxes which ravaged the vineyard of the Lord, **the task of exploring the secret heart of man was no easy one.** We cannot wonder that he speedily emancipated himself from the trammels of recognized judicial procedure which, in preventing him from committing injustice, would have rendered his labors futile. Still less can we be surprised that fanatic zeal, arbitrary cruelty, and insatiable cupidity rivalled each other in building up a system; unspeakable atrocious. **Omniscience alone was capable of solving with justice the problems which were the daily routine of the inquisitor;** human frailty, resolved to accomplish a predetermined end, inevitably reached the

practical conclusion that the sacrifice of a hundred innocent men were better than the escape of one guilty. *Ibid.* p. 96-97. ...

The remorseless logic of St. Thomas Aquinas rendered it self-evident that the secular power could not escape the duty of putting the heretic to death, and that it was only the exceeding kindness of the Church that led to give the criminal two warnings before handing him over to meet his fate. The inquisitors themselves had no scruples on the subject, and condescended to no subterfuges respecting it, but always held that their condemnation of a heretic was a sentence of death. They showed this in averting the pollution of a Church by not uttering these sentences within the sacred precincts, this portion of the ceremony of an *auto de fe'* being performed in the public square. One of their teachers in the thirteenth century, copied by Bernard Gui in the fourteenth, argues: **“The object of the Inquisition is the destruction of heresy. Heresy cannot be destroyed unless heretics are destroyed: heretics cannot be destroyed unless their defenders and fautors are destroyed, and this is effected in two ways, viz., when they are converted to the true Catholic faith, or when, on being abandoned to the secular arm they are corporally burned.”** In the next century, Fary Alonso de Spina points out that they are not to be delivered up to extermination without warning once and again, unless, indeed, their growth threatens trouble to the Church, when they are to be extirpated without delay or examination. Under these teachings the secular powers naturally recognized that in burning heretics they were only obeying the commands of the Inquisition. In a commission issued by Philippe le Bon of Burgundy, November 9, 1431, ordering his officials to render obedience to Friar Kaleyser, recently appointed Inquisitor of Lille and Cambrai, among the duties enumerated is that of inflicting due punishment on heretics “as he shall decree, and as is customary.” *Ibid.* p. 96, 97, 231.

7.3

THE TOOLS FOR THE INQUISITION

H.C. Lea, p. 110-112, 113

Yet the inquisitor was frequently baffled in this intellectual digladiation by the innocence or astuteness of the accused. His resources, however, were by no means exhausted, and here we approach one of the darkest and most

repulsive aspects of our theme. Human inconsistency, in its manifold development, has never exhibited itself in more deplorable fashion than in the instructions on this subject transmitted to their younger brethren by the veterans of the Holy Office – instructions intended for none but official eyes, and therefore framed with the utmost unreservedness. Trained through long experience in an accurate knowledge of all that can move the human breast; skilled not only to detect the subtle evasions of the intellect, but to seek and find the tenderest point through which to assail the conscience and the heart; relentless in inflicting agony on body and brain, whether through the mouldering wretchedness of the hopeless dungeon protracted through uncounted years, the sharper pain of the torture-chamber, or by coldly playing on the affections; using without scruple the most violent alternatives of hope and fear; employing with cynical openness every resource of guile and fraud on wretches purposely starved to render them incapable of self-defence, the counsels which these men utter might well seem the promptings of fiends exulting in the unlimited power to wreak their evil passions on helpless mortals. Yet through all this there shines the evident conviction that they are the doing the work of God. No labor is too great if they can win a soul from perdition; no toil too repulsive if they can bring a fellow-creature to an acknowledgement of his wrong-doing and a genuine repentance that will wipe out his sins; no patience too prolonged if it will avoid the unjust conviction of the innocent. All the cunning fence between judge and culprit, all the fraud, all the torture of body and mind so ruthlessly employed to extort unwilling confessions, were not necessarily used for the mere purpose of securing a victim, for the inquisitor was taught to be as earnest with the recalcitrants against whom he had sufficient testimony as with the cases in which evidence was deficient.

With the former he was seeking to save a soul from immolating itself in the pride of obstinacy; with the latter he was laboring to preserve the sheep by not liberating an infected one to spread pestilence among the flock. It mattered little to the victim what were the motives actuating his persecutor, for conscientious cruelty is apt to be more cold-blooded and calculating, more relentless and effective, than passionate wrath, but the impartial student must needs recognize that while many inquisitors were doubtless dullards who followed unthinkingly a prescribed routine as a vocation, and others were covetous or sanguinary tyrants actuated only by self-interest or ambition, yet among them were not a few who believed themselves to be

discharging a high and holy duty, whether they abandoned the impenitent to the flames, or by methods of unspeakable baseness rescued from Satan a soul which he had reckoned as his own.

They were instructed that it was better to let the guilty escape than to condemn the innocent, and, therefore, that they must have either clear proofs of confession. In the absence of absolute evidence, therefore, the very conscientiousness of the judge, under such a system, led him to resort to any means to satisfy himself by wringing an acknowledgment from his victim.

The resources for procuring unwilling confession, at command of the inquisitor, may be roughly divided into two classes – deceit and torture, the latter comprehending both mental and physical pain, however administrated. Both classes were resorted to freely and without scruple, and there was ample variety to suit the idiosyncrasies of all judges and prisoners. *Ibid.* p. 110-112. ...

These artifices were diversified with appeals to force. **The heretic**, whether acknowledged or suspected, **had no rights**. His body was at the mercy of the Church, and if through tribulation of the flesh he could be led to see the error of his ways, there was no hesitation in employing whatever means were readiest to save his soul and advance the faith. *Ibid.* p. 110.

7.4

CONFISCATION WAS THE FUEL

H.C. Lea, p. 225

Persecution, as a steady and continuous policy, rested, after all, upon confiscation. It was this which supplied the fuel to keep up the fires of zeal, and when it was lacking the business of defending the faith languished lamentably. When Catharism disappeared under the brilliant aggressiveness of Berard Gui, the culminating point of the Inquisition was passed, and thenceforth it steadily declined, although still there were occasional confiscated estates over which king, prelate, and noble quarrelled for some years to come. *Ibid.* 225.

WITNESSES AND EVIDENCES WERE KEPT SECRET

H.C. Lea, p. 133, 134-137

Yet evil as was all this, the crowning infamy of the Inquisition in its treatment of testimony was withholding from the accused all knowledge of the names of the witnesses against him. ...

When Innocent IV. and his successors regulated the inquisitorial procedure, the same limitation to cases in which divulging the names would expose the witnesses to danger was sometimes omitted and sometimes repeated, and when Boniface VIII. embodied in the canon law the rule of withholding the names he expressly cautioned bishops and inquisitors to act with pure intentions, not to withhold the names when there was no peril in communicating them, and if the peril ceased they were to be revealed. Yet it is impossible to regard all those as more than a decent veil of hypocrisy to cover recognized injustice, for it was a flagrant fact that inquisitors everywhere treated these exhortations as the councils of Narbonne and Béziers had treated the limitations prescribed by the Cardinal of Albano. Although in the inquisitorial manuals the limitation of risk is usually mentioned, the instructions with regard to the conduct of the trials always assume as a matter of course that the prisoner is kept in ignorance of the names of the witnesses against him. As early as the time of Gui Foucoix that jurist treats it as the universal practice; a nearly contemporary MS. Manual lays it down as an invariable rule; and in the later periods we are coolly informed by both Eymerich and Bernado di Como that cases were rare in which risk did not exist; that it was great when the accused was rich and powerful, but greater still when he was poor and had friends who had nothing to lose. Eymerich evidently considers it much more decent to refuse the names than to adopt the expedients of some over-conscientious inquisitors who furnished, like Cardinal Roman, the names written on a different piece of paper and so arranged that their identification with their evidence was impossible, or who mixed up other names with those of the witnesses so as to confuse hopelessly the defence. Occasionally a less disreputable but almost equally confusing plan was adopted, in swearing a portion of the witnesses in the presence of the accused, while examining them in his absence. This in the

trial of Bernard Délicieux, in 1319, out of forty-eight witnesses whose depositions are recorded, sixteen were sworn in his presence; in that of Huss, in 1414, it is mentioned that fifteen witnesses at one time were taken to his cell that he might see them sworn.

From this withholding of names it was but a step to withholding the evidence altogether, and that step was sometimes taken. In truth the whole process was so completely at the arbitrary discretion of the inquisitor, and the accused was so wholly without rights, that whatever seemed good in the eyes of the former was allowable in the interest of the faith. Thus we are told that if a witness retracted his evidence, the fact should not be made known to the defendant lest it should encourage him in his defence, but the judge is recommended to bear in mind when rendering judgment. The tender care for the safety of witnesses even went so far that it was left to the conscience of the inquisitor **whether or not to give the accused a copy of the evidence itself if there appeared to be danger to be apprehended from doing so.** Relieved from all supervision, and practically not subject to appeals, it may be said that there were no rules which the inquisitor might not suspend or abrogate at pleasure when the exigencies of the faith seemed to require it.

Among the many evils springing from this concealment, which released witnesses and accusers from all responsibility, not the least was the stimulus which it afforded to dilation and the temptation created to gratify malice by reckless perjury. Even without any special desire to do mischief, an unfortunate, whose resolution had been broken down by suffering and torture, when brought at last to confess, might readily be led to make his story as satisfactory as possible to his tormentors by mentioning all names that might occur to him as being present at conventicles and heretications. There can be no question that the business of the Inquisition was greatly increased by the protection which it thus afforded to informers and enemies, and that it was made the instrument of an immense amount of false-witness. The inquisitors felt this danger and frequently took such precautions as they could without trouble, by warning a witness of the penalties incurred by perjury, making him obligate himself in advance to endure them, and rigidly questioning him as to whether he had been suborned. Occasionally, also, we find a conscientious judge like Bernard Gui carefully sifting evidence, comparing the testimony of different witnesses, and tracing out incompatibilities which proved that one at least

was false. He accomplished this twice, once in 1312 and again in 1316, the earlier case presenting some peculiar features. A man named Pons Arnaud came forward spontaneously and accused his son Pierre of having endeavored to have him hereticated when laboring under apparently mortal sickness. The son denied it. Bernard, on investigation, found that Pons had not been sick at the date specified, and that there had been no heretics at the place named. Armed with this information he speedily forced the accuser to confess that he had fabricated the story to injure his son. Creditable as is this case to the inquisitor, it is hideously suggestive of the pitfalls which lay around the feet of every man.

Ibid. p. 133, 134-136.

7.6

THE REAL INVENTOR

H.C. Lea, p. 256-257

It would be impossible to compute the amount of misery and wrong, inflicted on the defenceless up to the present century, which may be directly traced to the arbitrary and unrestricted methods introduced by the Inquisition and adopted by the jurists who fashioned the criminal jurisprudence of the continent. It was a system which might well seem the invention of demons, and was fitly characterized by Sir John Fortescue as the Road to Hell. *Ibid.* p. 256-257.

8

THE CATHOLIC CHURCH AND THE EU

8.1

EQUATING EUROPE AND CATHOLIC FAITH

THE “NEW” OR “RE-EVANGELIZATION” OF EUROPE AS ATTEMPT TO RE-ESTABLISH A “GENUINE EUROPEAN UNITY”

The Bishops Conference wants to go back to the future by putting upon Europe Roman Catholic Jurisdiction

(An Analysis of the Central Message of the Lineamenta of the II Special Assembly of the Synod of Bishops of Europe, Vatican, 1998)

By Peter Buda

In the recent past a rather important event has taken place with regard to the relationship between the Roman Catholic Church and the European Union and, by nature, the future of Europe. In the following indent we follow virtually **verbatim the news of this event as it was presented by the *Catholic International*.**

Speaking at a mid-June Brussels meeting with EU Commission chairman Jacques Santer, the head of the Commission of Episcopal Conferences of Europe (COMECE), Bishop Josef Homeyer of Hildesheim have urged a “deeper dialogue” with EU institutions to strengthen the continent’s cultural and spiritual roots. As a COMECE official said, EU-Church contacts still lacked an “institutional framework” which could allow religious leaders some influence in policy-making. COMECE’s Secretary-General, Father Noel Teanor emphasized, that current COMECE-EU contacts, including twice-yearly seminars for EU officials and European Parliament members, provided no “input into policy-making.” “Such encounters are indicators of a non-structured openness to a religious discourse on the part of EU political institutions”. He continued “But this openness does not guarantee a real hearing for ethical and religious voices in the decision-making process.” **Catholic Church leaders, therefore, as the head of COMECE asserted at his meeting with the EU Commission chairman, hoped to begin formal**

annual meetings with EU leaders, as well as setting up joint working groups on specific issues. He added that the aim; would be “closer institutional cooperation,” and a “new quality” in EU attitudes to Christian Churches. This dialogue proposal, according to the head of COMECE, had been “received with interest” by Santer who urges a deeper appreciation of the spiritual dimension of European life, but at the same time, the Bishop stressed that approval by other EU Commission members could be needed before concrete steps were taken. The ideological base of this “closer institutional cooperation” providing the direct possibility of “input into the policy-making” of the EU will be made known in a declaration, titled **“Manifesto on Europe,” linking EU expansion with Christian values, and which is expected to be finalized at a 1999 Rome Synod of Bishops.**

So far the news of this event in the *Catholic International*. No evidence is necessary to prove its significance. But to understand in its totality what the Catholic Church leaders by this **“closer institutional cooperation” destined “to strengthen the continent’s cultural and spiritual roots,” by the “linking EU expansion with Christian values” through intervention of the Church “into policy-making”,** mean, it is wise to turn our attention to the document providing the official guideline for the declaration *“Manifesto on Europe”,* expected to be finalized at the 1999 Rome Synod of Bishops as the ideological base of the Roman Catholic Church’s involvement in EU issues. This document was issued by the General Secretariat of the Synod of Bishops and *Libreria Editrice Vaticana* with the following title: *Synod of Bishops II Special Assembly for Europe, “Jesus Christ Alive in His Church, the Source of Hope for Europe”, Lineamenta.*

What concept of European unity does the Church strive to carry out by “closer institutional cooperation” with EU? What is the theoretical and theological foundation of her aspiration to get direct “imputing into policy-making”? This Lineamenta provides us with a rather challenging answer in this regard.

It is not an exaggeration, if reading this document one can have the feeling of being in the immediate proximity of a historical turning point. At least, the authors of the text felt certainly so, providing us with an almost unprecedented determined and plain document on the concept of European community the Roman Catholic Church strives for establishing nowadays.

As the extraordinariness of the present historical moment is suggested in the Lineamenta, and as the text suggests as well that a breakthrough must come soon in seeking European unity, one has a special reason to give heed to the testimony of this document of really decisive importance.

The first thing which strikes one reading the Lineamenta is its rather optimistic tone. What is, however, even more striking is the solemn style by which the magisterium strives to bring into prominence the alleged timeliness of the general topic. No other thing is more emphasized than that we live in an exceptional, an extraordinary age with regard to the fulfilment of the Church’s mission in the continent, which fulfilment is to bring about a “new European community”, or, to put it more accurately, a “*re-newed European community*”.

The document is overwhelmed by stressing that exceptionality. *“Never before has Europe experienced a sense of her oneness than at this present moment”* – we read. We are told, that one can experience the *“Lord’s presence in the recent happenings in Europe”* and these *“earthly happenings have set Europe on the path leading to an encounter with the Lord”!* The present social, political and economical developments in Europe, the tendencies toward an organized European unity, we are told, then, are steps to the fulfilment of the Lord’s will in this earth. Of course, these developments can reach their genuine integrity only if they are imbued with the Gospel. It is this task what the Church should execute in her “European plan”, striving for an organized European unity which accepts as its principle the authority of the Gospel. In this way, as “the result of the new proclamation of the Gospel”, ***“the immense spiritual reserves of this continent can fully develop in all areas, and conditions can be created for an era of true rebirth at the religious, economic and social levels”.***

In consequence of this, we are assured, Europe has a *“Christian future”!*

Here the document reaches its most solemn tone. It is very peculiar how the magisterium addresses this matter, as if it would have, learning from the lessons of the past centuries, a hidden certainty concerning the way that history must take now. It makes us think that we live immediately before a decisive turning point in the history of the Church and Europe, which somehow is closely connected to the fulfilment of the Lord’s mission

command in this earth. “What an extraordinary hour of history we have been granted to live in”! - says the document. “*What important task Christ has entrusted to us! He is calling each of us to prepare the new springtime of the church*”! **The “new springtime of the church” the future has in store for us, in consequence of the “new proclamation of the Gospel”, which will result in a “true rebirth” even in the “economic and social levels”, that is, which will bring back Europe to its “Christian future”!** I say ‘back to the future’ intentionally, since this special notion provides the backbone of this document. A sometimes implicit, sometimes explicit backward looking is characteristic of the whole Lineamenta. And it is this that gives the key for my study, from a special, but, according to me, the fundamental point of view, i.e., that of the “new” or “re-evangelization” – that of the fulfilment of the mission – of the continent as the re-establishment of a Christian (Catholic) European community.

I would start from here, from the central idea of the document. Europe is to be *re-evangelized*, we could summarize the indisputably main message to the text. It is this idea that is explored in general then. What is challenging and what we would like to treat and prove in this paper, **is that this “re-evangelization” has its ultimate meaning the juridico-political transformation of the future, unified “European Community” according to the “principles of the Gospel”, that is, the subordination of Europe to the authority of the Church, as it was, in principle, in medieval Christendom.** It is this purpose concerning which the magisterium considers the present constellation of the political, economical and social co-efficient exceptionally favorable. **First, then, we have a look at how the text unfolds this thesis explicitly.** After that, we would turn to the general ideological background, that is the Church’s interpretation of the fulfilment of her earthly mission – of the “evangelization” – which, in the Church’s understanding, is inseparable from the establishment of a unified human society subordinated to the Church’s moral and religious authority.

THE “RE-EVANGELIZATION” OF EUROPE – THE MAIN MESSAGE OF THE DOCUMENT

It is beyond doubt, that the frequently used expressions, the need for “new evangelization” or “re-evangelization” of Europe, mainly in the case of an, so to speak, originally Christian continent, clearly refers to a former

evangelization, that is, to the existence in history of a *once evangelized* Europe. Consequently, we have here in the document an implicit but unambiguous reference of fundamental importance to the *medieval Christendom*, as the perennial, central principle of European unity. We have to return to that notion of European unity which once prevailed in the continent. In principle, that unity, as everybody knows it very well, consisted in a – more or less – *organic, supranational* unity, which accepted, and was, in its juridico-political structure, subordinated to the ultimate moral and religious authority of the Roman Catholic Church. Briefly, the notion of this evangelized Europe was manifested – and should be manifested now again, as we are told – in a European unity, which, as a *political* institution is evangelized as well, that is, subjected to the authority of the Gospel, and its proclaimer, the Church. Beyond the obvious implicit historical reference that the concept of “re-evangelization” makes, however, the document unambiguously identifies what we have to mean by that, giving several concrete allusions to the desirable medieval idea of Europe as a model to be revived, to be rebuilt. We will enumerate now these elements.

The document dedicates a special concern to the exploration of the **historical parallels that modern Europe needs to revitalize.** It asserts that Europe needs a “*rebirth*” which is an obvious reference again to the historical origin of the idea, which, as then, is organically related to Catholic Christianity. Europe has “Christian roots” – obviously Catholic-so, striving for its unity and its “rebirth”, it has to “*have recourse to the spiritual origin of its history*”, “*to awake its Christian soul in which its unity is rooted*”, “to purify and bring back to their source the evangelical values still present but, as it were, disarticulated”. When the document establishes that it is necessary **to build a Europe which is “deeply mindful of its own history”** it does not hesitate to make it quite unambiguous, that this is not a rhetorical locution but a very clear calling up for returning back to that idea of “*Europe which once welcomed the first apostolic preaching*”. Adding to that the thesis, as the document says, that “*The most profound basis of unity was brought to Europe and consolidated down the centuries by Christianity with its Gospel*”; or “*Upon the Gospel were laid the foundations of Europe’s spiritual unity*”, our deduction that the concept of *new- or re-evangelization of Europe* is an implicit reference to the former one, or, to the calling up for *reviving* that one-time concept of evangelized Europe, is literally justified. This model of

evangelization however is far from being a mere spiritual or spiritually manifested matter. It had a very concrete social and political realization, related inherently to the juridico-political structure of the unity of the continent. ***“The history of the formation of the European nations runs parallel with this evangelization”***. So, it is in the consequence of that evangelization that an European unity came into existence, and it is that model of unity that needs to be ***“rebuilt”*** now. The basis of that unity, that is, of that idea of Europe which is to be built up, is the “Gospel”, that is, following from the nature of the matter, eventually the Church’s ultimate religious and moral authority, who authentically proclaims that Gospel. Evangelization, than, in the word-stock of the magisterium has – should have – a very concrete temporal meaning, or, put it other, temporal manifestation. It has to lead to the establishment of an organized human community – in our case, for the European unity - providing the ultimate basis for the principles of that unity. In even more concrete words, these principles of the “Gospel”, that is ultimately the religious and moral authority of the Church are to be sanctioned in the juridico-political levels of that organized community – like was in the medieval Christendom the model of which, in this way is presented before us as the one to be followed. It is not necessary now to spend more time exploring what did this unity consist of in its principles. Thus, we can understand fully the deep requirements of what the Church’s task in evangelizing Europe today mean, when she strives for helping ***“those who have forgotten Christ and His teaching to discover Him anew”*** in order that Christianity can “once more traverse our continent”. ***“To discover Christ anew” and “traverse once more our continent” – obvious allusions again to the medieval model of Christendom. Here is again re-affirmed that the “discovering of Christ”, after the pattern of Middle Age-Europe, goes necessarily hand in hand with the Church’s traversing of the continent”. That is, like in medieval Christendom, it should be manifested in ordering the temporal according to the principles of the sacred.*** One, however, cannot be surprised at this, because it is in complete conformity with what the Church confesses about the earthly fulfilment of the mission. It is that doctrine upon which the medieval Christendom was based, too.

“EQUATING EUROPE AND CATHOLIC FAITH” – A EUROPEAN UNITY REBUILT ON THE BASIS OF SPIRITUAL AND MORAL UNITY

After so identifying the presence of these key-concepts as the theoretical foundations of the document, we would now have to have a look at the direct textual witness of the document how these bears upon the concrete building up of the European community. The document makes unambiguously clear, that by European unity the Church means the building up of ***“Europe’s spiritual, cultural and political identity”***. The text connects inseparably together the case of spiritual and cultural unity with the political unity of Europe. In doing so, it establishes that such a European political unity is to be achieved which is based on and maintains the spiritual and cultural unity of the society. That is, which, in its political arrangement, makes as its foundation and sanctions those values, ***“moral concepts”*** upon which this spiritual and cultural unity is laid down. ***“The recovery of the right to self-determination and the growth of political and economic freedom is not sufficient to **rebuild** European unity”*** – says the text.

That is, these political, economical and social developments should be placed into the context of a genuine order. It is here that the true significance of evangelisation comes into fore. ***“An evangelising mission of great dimension is calling us. We must rediscover and strengthen the Christian roots of the diverse nations of the whole continent; we must help them find the Christian leaven which has permeated the manifold expressions of its **cultural heritage** and foster the presence of the Gospel ferment in Europe’s “today” and “tomorrow”, from every expression of **public life**”***. The indirect reference in this formulation is understandable: it is the *public life* of Europe – from which, as we are told, the ‘faith and saving truth’ are just about to be removed completely – that should return to its ‘Christian roots’, that should rediscover its ‘cultural heritage’ and the ‘Gospel ferment’. So, the process of ‘evangelising mission should ultimately mean that very clear and decisive subordination of public life to Christ’s authority, that is, to the authority of Christian principles.

It is this conclusion too that we can draw from the interpretation of the expression ***“cultural heritage”***, or ***“heritage of Europe”***, getting an insight of decisive importance into the essence of the Roman Catholic idea of European unity. These expressions – as in the above cited case – are mentioned always in close connection with the rejection of an idea of Europe which is a merely economic or contractual nature. In another part, the document reads as follows: ***“... the unity of Europe, ... cannot depend***

solely on a commonality of material interests. It is based on agreement regarding fundamental goals and moral concepts, on a common cultural heritage and, last but not least, on solidarity of mind and heart. Without the Christian Faith Europe would have no soul. We Christians are called to foster the spirit which will unite and shape the Europe of the future.

Here it is already clear, that the European unity, the European Union of the future must be based on ultimate moral concepts and that it is the Christian faith – it is not questionable that by this the Roman Catholic Faith is meant, as the only absolutely authentic expression of the Faith, according to the magisterial theology – that should provide these moral concepts – **the ‘soul of Europe’ -, it is the Christian Faith that should ‘unite and shape the Europe of the future’. Or, in other words, it is the Christian Faith that is the only foundation of European unity.** Behind this, however, we have a very clear interpretation of the terms “*cultural heritage*” or “*heritage of Europe*”, which is given in the present Lineamenta itself, and in some former, relation document. In the Lineamenta we are explained what meaning these terms should always bear: “*Europe today*”, the Final Declaration of the Synod of the European Bishops recalls, “*must not simply appeal to its former Christian heritage: it needs to be able to decide about Europe’s future in conformity with the person and message of Jesus Christ*” (n.2). This formulation inevitably – and, I think, not unintentionally – recalls Pius XII’s words, who, when at the Congress of the Hague (1948) a resolution mentioned Europe’s common heritage of Christian civilization’, ‘noted this with satisfaction, but added that it was not enough without ‘express acknowledgement of the rights of God and of His law...’ (Cited in: Von Rosemarie Goldie. *The Idea of Europe and the Catholic Laity. A Backward Glance (1948-1966)*, in Schambeck, Herbert (ed.). *Pro Fide et Iustitia. Festschrift für Agostino Kardinal Casaroli*. Berlin Dunker & Humblot, 1984). The references made to the Christian heritage of Europe, according to this parallels, alludes obviously to the necessity of subjecting the public life of Europe to ‘the rights of God and of His law”, or, in a bit more modern and carefully worded manner, to the ‘person and message of Jesus Christ’. Here, however, we have to draw attention to an even more telling and challenging, implicit reference in the text. These reference is connected to two points in the document. First, it is the term “(cultural)heritage” that gives a springboard to a wider historical parallel. Pius XII’s word mentioned above are cited from an article dealing with the Roman Catholic background of the idea of European unity. These words are set in line in that article with the words of an other pope, namely Paul VI,

who – according to the author of the afore mentioned article as well – understood the idea of European unity and its “heritage” in the same way as Pius XII. Those words of Paul VI which are cited in that article are the follows: “*If one day Europe should repudiate her fundamental ideological heritage, she would cease to be herself*”. To Paul VI’s idea of Europe which is based on its ideological heritage, there is an explicit reference in the Lineamenta. The document, speaking about the incapability of Europe “*for a true rebirth, unless it has recourse to the spiritual origin of its history, culture and European mode of being*”, asserts, that “*Europe has a Christian soul*”, then recalls Paul VI, who “*called on us to awaken the Christian soul of Europe in which its unity is rooted*”. Then in an already cited passage in our work the document establishes that “*Without the Christian Faith Europe would have no soul*”, and without that soul the case of European unity is doomed to disintegration. By this explicit reference to Paul VI’s notion of Europe and to the axiom that “*without the Christian Faith Europe would have no soul*”, an almost literal reference is made in this Lineamenta to Paul VI’s historical words on “*the great question of European unity*”, which immediately followed those cited above about the ideological heritage of Europe, and which shows out what we should mean by his term of this ideological heritage, or European soul. The two sentences read as follows: “*If one day Europe should repudiate her fundamental ideological heritage, she would cease to be herself. Those seemingly paradoxical words of the English historian Belloc, equating Catholic Faith and Europe, are still true ...*”(Paul VI, at his first Papal Audiences for the FUCI (Italian Catholic University Federation), 2.9.1963, in: Von Rosemarie Goldie. *The Idea of Europe ...* p. 139).

Although even now it becomes very unambiguous what conception of Europe Paul VI holds the only solution for Europe, it is indispensable that for its interpretation we go to the source of his citation. These words of H. Belloc which Paul VI - and through him this Lineamenta of the II Special Assembly of the Synod of Bishops for Europe in 1998 – made reference to are to be found in his book titled *Europe and the Faith* (Constable and Company Lmted, London, 1921 – St. Thomas’s Historical Society). And read as follows:

“there remains the historical truth; that this European structure, built upon the noble foundation of classical antiquity, was formed through, exists by, is **consonant** to, and will stand only on the mould of, the

Catholic Church. Europe will return to the Faith, or she will perish. The Faith is Europe. And Europe is the Faith” (p.331).

These words are the very last words of the book, meant to be its conclusion or even testimony. Every reference made to them thus a reference to the whole concept unfolded in the book. Consequently, to interpret them – and thus the conception which Paul VI and this Lineamenta made reference to – correctly, we should have a brief look at that theoretical and historical exposition which precedes them, and of which these words are the “crown”. What, then, about that concept of European unity in the book, of which these words are the apt recapitulation in the Pope’s mind? We would give here a brief summary of it, based beyond all an concrete textual references.

The fundamental premise of that conception, which is emphasized time and again by the author, is that the *idea of European unity* the heir of the *Roman Empire* was, which empire, although in its original form ceased to exist, in reality survived in the medieval Christendom, that is in the Christian Europe. That agent who preserved and revived it was and is the **Roman Catholic Church, as the indispensable soul of that political and spiritual unity**. The most telling, relevant citations of the book are the following: *“The history of European civilization is the history of a certain political institution which united and expressed Europe, and was governed from Rome. This institution was informed at its very origin by the growing influence of a certain definite and organized religion; this religion it ultimately accepted and, finally, was merged in.... The institution – having accepted the religion, having made of that religion its official expression, and having breathed that religion in through every part until became the spirit of the whole – was slowly modified, spiritually illumined, and physically degraded by age. But it did not die. It was revived by the religion which had become its new soul. It re-arose and still lives. ... The Religion which informed and saved it was then called, still is called, and will always be called ‘The Catholic Church’”* (p.31). *And again: “the Roman Empire with its institutions and its spirit was the sole origin of European civilisation ... the Empire accepted in its maturity a certain religion ... this religion was not a mood but a determinate and highly organized corporation. ... As the Empire declined the Catholic Church caught and preserved it. ... There is no parallel to this survival in all the history of mankind. ... There was no destruction of Roman society; there was no breach of continuity in the main*

institutions of what was now the Western Christian world... (p.124) ... And the agency, I repeat, which effected this conservation of the seeds was the Catholic Church. (p. 94-95). ...What was the Roman Empire? - institution affected from its origin, and at least permeated by, another institution. This institution has (and has) for its name “The Catholic Church”. (p.55). ...Christendom (...is nothing more than the Roman Empire continuing though transformed) ... (p.224). ... My object in writing it is to show that the Roman Empire never perished but was only transformed; that the Catholic Church which it accepted in its maturity caused it to survive, and was, in that origin of Europe, and has since remained, the soul of our Western civilization ... (p.163). It is this historical truth of capital importance upon which then the author bases the testimony of his book, namely, that “Europe and the Catholic Church were and are one thing... (p.32),” or, in the famous, already cited words, with which he closes the book: “there remains the historical truth: that this European structure, built upon the noble foundation of classical antiquity, was formed through, exists by, is consonant to, and will stand only in the mould of, the Catholic Church. Europe will return to the Faith, or she will perish. The Faith is Europe. And Europe is the Faith” (p.331).

So, in sum, the idea of European unity should be led back to the Roman Empire. The concept of the medieval Europe was nothing more than the continuation of the idea of this empire in a new form. The agent of that continuation the Roman Catholic Church was, providing the Christendom that *soul*, spiritual unity, which already of the Roman Empire itself the distinguishing attribute was. The Roman Empire “was revived by the religion which had become its new soul. ... the Roman Empire never perished but was only transformed; that the Catholic Church which it accepted in its maturity caused it to survive, and was, in that origin of Europe, and has since remained, the soul of our Western civilization”.

The main premise of that unity, as we can see, was that it was ‘caused to survive’, and maintained by the *soul*. It meant, in practice the religious unity of the empire and then the Christendom, and, of which this the indispensable foundation was, the ultimate moral and religious authority of the Roman Catholic Church over Christian Europe. Although that historical situation does not need to be detailed because it is already well-known before everybody, we - for the sake of an accurate identification of the present conception – would call for our help some Roman Catholic

church historians and theologians concerning the former historical manifestation of this idea of “*the general supremacy of the spiritual over the physical*” (Franzen, August – Dolan, John P. (rev. & ed.). *A Concise History of the Church*. Burns & Oates – Herder and Herder, 1969, p. 183) in the history of European unity. According to them, that “symbiosis of church and state (Franzen-Dolan, p. 171) which was the characteristic of the medieval European unity, was the result of the desire of the Church “*to organize the earth into a single society made to the image and likeness of the heavenly city*” (Gilson, Etienne: Forward... p. lxxix-lxxxii) that is the Church herself. It necessarily meant the assertion of “***the claim of the papacy to world domination***” (Franzen-Dolan, p. 183) taken granted the concept that “*One World is impossible without One God and One Church*”. (Gilson, xcvi-xcviii). This One World, this European unity “*would not have been so complete ... if politics had not at that time been included in the sphere where Christian principles of morality were to be respected. It is that intimate association of ethics and politics that makes for the exceptional greatness of the period, a greatness which in retrospect is being praised today, not only in papal encyclicals but also by leading historians who, far from sharing all the beliefs of orthodox Christianity, are looking for principles of human unity more efficient than those which any universal empire of the evocation of its ghost can possibly offer*”(Halecki, Oscar. *The Millennium Of Europe*. University of Notre Dame Press, 1963). This, the Church’s being the soul of European unity meant the unconditional acceptance by the political sphere of the principle, “***that in order to establish the political unity of the Christian Commonwealth, the leading role of the Papacy had to be implemented and supported by a supranational secular organization...***” (Halecki, 151). Here “***The temporal is subject to spiritual power***”, (Francis de Vittoria. *De Indis*, II. 6. in Beales, A.C.F. *The Catholic Church and the International Order*, Penguin Books, New York, 1942, p.122), and since “*the Supreme Pontiff can in no wise violently separate the category of politics from the supreme control of faith and morals entrusted to him*” (Pius X, Consistorial Address, Nov. 9. 1903) the “*earthly power remains conscious of its own subjection to the kingly sceptre of the Son of God...*” (Pius XII, Letter to the Cardinal Archbishop of Cologne, January 1935). All in all, this situation “***allowed the church to appear as the true Imperium Romanum and to develop the idea of papal world domination. ... The populus christianitis, therefore automatically became the head and guide of the western world which, though consisting of many***

peoples, was united in the same faith”, and where “all things, [“even kings and princes”] in the world must submit to God’s order” (Franzen-Dolan, p. 221).

To summarize, at last, the whole concept, we are told, that it is to be led back to the origin of Europe, when, after the formal fall of the Roman Empire, the medieval Europe, accepting the ideological heritage of that empire, succeeded in establishing – more or less – a political unity, which acknowledges as the ultimate authority, the authority of the Church. So far about the historical identification of the idea, according to which Europe should submit itself again to the authority of the *Faith*, its *soul*.

Now it is clear, that which idea Paul VI made reference to asserting, that “*Those seemingly paradoxical words of the English historian Belloc, equating Catholic Faith and Europe, are still true...*” And what our main point is that we should be aware that it is this idea that the Lineamenta adopts, when it alludes explicitly to the conception kept alive by the Catholic Church throughout the centuries and represented by Paul VI too, in the following way: “*Truthfully, one can say that Europe had a Christian soul. Paul VI “called on us to ‘awaken the Christian soul of Europe in which its unity is rooted’.*” We already know well what Paul meant by this, when he connects it to Belloc’s notion, namely, that “*Europe will return to the Faith, or she will perish. The Faith is Europe. And Europe is the Faith*”. As we can see, Paul VI applies the expressions *soul* and *Faith* as synonyms, in the *Bellocian* sense. He wants Europe ‘to awaken its soul’, or, ‘to return to the Faith’. The two terms have the same meaning, that, for the interpretation of which Paul VI’s reference to Belloc’s words gives solid ground, as we have already seen that. The Lineamenta, as we have seen as well, recurs to Paul VI’s terms explicitly. Then, at last, it gives the most eloquent evidences of the adoption of this historical conception. The document repeats almost verbatim Paul VI’s *Bellocian* words in the following way: “***without the Christian Faith Europe would not have a soul***”. ***That is, because it is established by the document, that without rediscovering its soul Europe has no chance to achieve a genuine and enduring unity, this sentence has the following meaning: without the Faith Europe will have no future*** (‘would have no soul’), or, in Paul VI’s words, “***If one day Europe should repudiate her fundamental ideological heritage, she would cease to be herself***”. And it is this notion which is followed immediately by a reference made by Paul VI to Belloc:

“Those seemingly paradoxical words of the English historian Belloc, equating Catholic Faith and Europe, are still true...” So, “Europe has a Christian soul”, as the Lineamenta and Paul VI with the same meaning, asserts; this assertion refers to the idea of as Paul VI put it – ‘equating Catholic Faith and Europe’, which reference, consequently, means the adoption of the age-old conception expressed by Belloc: ‘The Faith is Europe. And Europe is the Faith’, with the meaning and historical content which we have seen in our brief analyzing of the book.

It is this concept that is reaffirmed in the document in several ways. The Lineamenta, for instance, draws the conclusion explicitly that since “Europe has a Christian soul”, *“Europe’s proper task is to seek the spiritual sense of its social and political process”*. By this it asserts that the acceptance of the idea about Europe’s soul should necessarily mean that Europe’s social and political life should be determined and guided ultimately by its *soul*, that is a spiritual authority representing authentically that soul. The document here connects to each other again inseparably the idea of Europe’s having to rediscover its soul, that is the primacy of the religious principle, to the political and social structure of European unity. We can see here again, that the historical conception according to which the social and political realm should be subordinated to the authority of the religious one is adopted. And even more, the achievement of this subordination is directly identified with the means and end of the “new evangelisation”, when the document calls up for using this “spiritual sense of social and political process... [as a] means of the new evangelisation”. We can come to know that this process is so closely related to politics, that its executing falls to the share of the politicians, among them are ones, who, *“in the midst of signs of hate and violence”, already “seek the spiritual sense of ... [Europe’s] social and political process”, “Europe’s proper task”*.

Of course, the success of this venture cannot be imagined without the *spiritual unity* of Europe. And it is the next concept occupying a very important place in the document. It is closely related, even synonymous of the concept of the *soul* of Europe and its *Faith*. Nevertheless, viewing this central conception from this angle too, it can cast even more light upon the depth and demand of the idea. Indeed, we should be aware, that it is the notion of the necessary *spiritual unity* of Europe that is included in the concept, which - in Pope Paul VI’s words – ‘equates Catholic Faith and

Europe’, that is, which wants to subordinate the European community to the authority of this Faith. The Lineamenta refers several times to the fundamental importance of this idea. It emphasizes *“the cultural and spiritual unity of this continent”*, the necessary manifestation of *“spiritual unity of Christian Europe”*. It is almost the repetition of what we spoke about before, but it is very important to see what does this term of the spiritual unity of Europe necessarily mean, or include. **Spiritual unity means – as the document itself puts it – the “agreement regarding fundamental goals and moral concepts, on a common cultural heritage and, last but not least, on solidarity of mind and heart”**. **In sum, spiritual unity means the fundamental unity concerning the Faith, that is the spiritual foundation of political unity.** As was the case on its former historical manifestation, a European unity based on the authority of the soul, which is the ‘Catholic Faith’, cannot overlook any fragmentation with regard to the *fundamental* principles of religion and morality. The document does not hesitate to recall the medieval parallel as a model of the future spiritual unity of Europe, when it asserts, that *“Upon the Gospel were laid the foundations of Europe’s spiritual unity”*. This, decoding the expression, meant then, that Europe’s spiritual unity was based on a common religious Faith, which, although comprised and built in many aspects of human religiosity and morality, ultimately required the acceptance of the authority of the Gospel – *“as faithfully presented and interpreted by the Magisterium”* (Pope Paul II, Encyclical Letter *Evangelium Vitae*, n. 82) – the authority of the ‘Catholic Faith’, the Roman Catholic Church. It is this Gospel now again, upon that the foundations of Europe’s spiritual unity are to be laid – this would be the task of the ‘new evangelisation’, the ‘new preaching of the Gospel’. Without this kind of spiritual, religious unity, - we are told – the unity of Europe cannot be established. It is the reviving of this unity then, that the Roman Catholic Church strives for, according to this Lineamenta: ***“The goal of the authentic unity of the European continent is still distant. There will be no European unity until it is based on unity of the spirit. This most profound basis of unity was brought to Europe and consolidated down the centuries by Christianity with its Gospel, with its understanding of man and with its contribution to the development of the history of peoples and nations. ... The foundations of the identity of Europe are built on Christianity. And its present lack of spiritual unity arises principally from the crisis of this Christian self-awareness.”***

(It is logical, then, that the most serious “*revolts against the unity of European civilization in the Middle Ages*”, according to Belloc’s book *Europe and the Faith*, was those rejecting the authority of the Roman Catholic Church in question of norms of faith and morals. In this way the spiritual foundation of the unity of Europe was attacked. The book takes as “*the worst revolt of all*” before the Reformation, the Albigensians, as the most vigorous “heretic” movement, who, instead of the authority of the Church, only the authority of the Bible accepted. Their persecution as the enemy of the spiritual unity of Christendom, was not an unnecessary encroachment but the logical corollary of the conception “*equating Europe and the Faith*”. It must be done so. As Franzen – Dolan puts it, “*it is idle to speculate to what extent religious or political motives were decisive; a world which saw itself as a religious-political unit could only act as a unit when it saw its uniform Christian foundation attacked*”. ... “*Medieval man regarded the religious heretic also as a political revolutionary, who through his attack of the foundation of western Christian society threatened the existence of both church and state*”. (Franzen-Dolan, p. 211,210). The Reformation, the most serious stroke for the religious authority of the papacy is called in the “Bellocian” conception even the “*shipwreck of European civilization*”, “*the reaction against the unity, the discipline, and the clear thought of Europe*” (Belloc, p. 295). It is – if one accepts the concept of ‘equating Europe and the Faith’ – deservedly so, because the principle of *Sola Scriptura*, as the Reformation so vividly represented, was the most effective diametrical opponent of the spiritual authority of the papacy. At the root of that authority, instead of the principle of *Sola Scriptura* as the only base of an authentic religion and relation with God, the acceptance of *tradition* lied, which inevitably brings to the fore the question of who is the authentic mediator and guardian of that tradition, that is, inevitable leads to the establishment of an ultimate religious and moral authority. This topic, however, not less important than the present one, would lead to issue of the age-old controversy between *Sola Scriptura* and *Sola Traditione*).

FREEDOM IN THE EUROPE OF THE FAITH

We can get a further insight into the depth and nature of the Roman Catholic conception of European unity from an other point of view present on the document, which closely relates again to the idea of “equating Faith and Europe”. This point of view has to do with the explicit question of

liberty or freedom in a Europe based on its soul, the ‘Catholic Faith’. What interpretation of freedom follows from this concept of Europe, according to this document?

The Lineamenta treats this question explicitly, too. A European unity which is built upon “*the Faith as a fundamental and basic element of European culture and its unity*” **has to reject** “*the rise of a culture based on law which proposes models of behaviour devoid of the values of the Gospel*” – reads the text. That is, to open this formulation, that Europe is guided by the Faith should mean, **that it must adopt, cultivate and allow only that conception of law, which proposes models of behaviour based on the values of the Gospel. With these two expression – models of behaviour (what is the right, what is the wrong one) regulated by law according to the values of the Gospel – comes from the ‘Europe of the Faith’** and arrives at the very question of freedom in it. How does the document conciliate the classical liberal freedom of the human person to this concept of European unity? On the one hand, by no means, rather condemns that idea of society which “*permeated by ideas of democracy inspired by liberal ideology*”. It is necessarily so, if we keep in mind, that the concept of ‘equating Europe and Catholic Faith’ means such a human community, which is based on a spiritual unity, a common moral ground, which is given in the authentic interpretation of the ‘Gospel’ by the ultimate authority of the Roman Catholic Church. This gives a definite, objective norm for how one may ‘behave’ in this society, that is, which kind of morality, religiosity, altogether, which kind of way of thinking is allowed. “*Freedom which does not acknowledge the inherent limits of the demands of truth and those of the ‘truth of the person in community’ immediately becomes license. Freedom without obligations and responsibility is illusory*” – says the document. One of the main characteristics of our age in this respect, that while it is in “*a naive euphoria ... prompted by the regaining of the basic freedom of the individual, ... this freedom is unsupported by a sound attitude of how to exercise it*”, because of “*a lack of appreciation of values and objective truth*”. So, the ‘basic freedom of the individual’ should go hand in hand with a ‘sound attitude of how to exercise it’, on the base of an objective truth, order. And it is in this sense that the document attempts to be the herald of human freedom. Freedom is freedom only if it is exercised according to an objective moral order. The Church, intending to be the authentic guardian of that order, does not wish else then to be the

guarantee of true freedom. There *should* exist an objective moral order for exercising freedom. “Yes, true freedom demands order. But what kind of order are we talking about here? We are talking first of all about the moral order, order in the sphere or values, that order of truth and goodness. When there is a void in the area of values when chaos and confusion reign in the moral sphere freedom dies, man is reduced from freedom to slavery, becoming a slave to instincts, passions and pseudo-values.” Then the document does not hesitate longer to express misunderstandable and directly what it means by this ultimate moral order as the frame of freedom: “The truth revealed in Christ is the context for the exercise of freedom”. The truth revealed in Christ, that is, ‘as faithfully interpreted by the Magisterium’ of the Roman Catholic Church, is that ultimate order to which freedom in the future Europe should be subjected, if it lays claim to the right of freedom. As we can see, it is just the counterpart of that freedom, or concept of liberty, which is generally understood by people used to liberal ideas, which does not accept any authority – nor church or state, and mainly not both of them – in questions of moral or religious nature. It is exactly that point that was at the root of the classical controversy between Protestants, liberals, and the medieval concept of organic society as represented and defended by the Roman Catholic Church. So, as we can see, this antagonism has not changed in this question principally, although it speaks in a language accommodated to the ideas widely accepted in modern society (‘basic freedom of human person’ etc.). If we keep in mind what the concept of Europe the Church propagates is the conscious revival or continuation of the idea of ‘equating Europe and Catholic Faith’ as expressed Pope Paul VI and explicitly adopted by this document, it must mean that there should be a continuation in the concept of freedom in that European unity, too. The document does not deny this essential continuity throughout the centuries regarding the Church’s notion of human freedom and the fundamental difference between this and liberal ideology. Freedom should always have an order, and the *order of freedom* should always be in accordance with Christ, whose earthly representative the Church is: “In posing the question on the way which leads to freedom, Pope John Paul II added: ‘can man build the order of freedom by himself, without Christ, or even against Christ? This is an exceedingly important question, but how relevant it is in a social context permeated by ideas of democracy inspired by liberal ideology! In fact, attempts are being made to convince man and whole societies that God is an obstacle on the path to full freedom, that the Church is the

enemy of freedom, that she does not understand freedom, that she is afraid of it. In this there is an incredible confusion of ideas! The Church never ceases to be in the world the proclaimer of the gospel of freedom! This is her mission”. Here the Lineamenta establishes irrevocably that in the Church’s notion of freedom there is no any change. The Church, just like and so much as in the past centuries, says, is the proclaimer and guardian of freedom, which is subordinate to the ‘Gospel’ as the ultimate context of its exercising, ‘as faithfully interpreted by the magisterium’, that is, subordinated to the moral-religious authority of the Roman Catholic Church. At the same time, just like and so much as in the past centuries, those liberal conceptions of freedom she opposes, which hold to an ultimately different interpretation of freedom, which excludes the **givenness** of an objective moral order and outside authority in questions of moral and religious obligations bearing upon matters of conscience.

CONCLUSION

We started our paper with the establishment that one cannot remain untouched by the special concern by which the document addresses the problem of European unity. We said, that one can feel flipped by the wind of a historical turning point reading the text. By now, however, we could speak about the ‘wind of a historical *returning* point’ which blows more and more from the document. To put it bluntly, none of us can deny that a rather challenging idea is advanced in this Lineamenta. Challenging is the concept itself and challenging is the striking determination with which the document speaks. The special reference to the extraordinariness of the present historical moment and the optimism characterizing the whole text – we cannot deal because of the limit of this paper with the topic of the theology of *hope* in the document, which the soon success of the “*European plan*” of the Church assures is – suggests, that the Church should keep in mind an evidence something special. Facing this mysterious phenomenon, one inevitably recalls a similarly mysterious, relevant papal thought concerning the course and unfolding of history: “***Through past events we can, without temerity, foresee the future. Age presses hard upon age, but there are wondrous similarities in history, governed as it is by the Providence of God***” (Pope Leo XIII, Encyclical Letter *Rerum Novarum*). This idea – if we take seriously what Pope John XXIII said about one of his predecessors and through that about the governing principle of papal documents, namely that “*In declaring the truth he never*

sacrificed precision to mere rhetoric“ (Encyclical Letter *Aeterna Dei Sapientia*) – can allow us to have a look behind the curtain veiling the Church’s certainty regarding the ‘signs of the times’ of the exceptional favoring conditions of the soon reviving of the idea of ‘equating Europe and Catholic Faith’. Perhaps, the Church, on the ground of her unprecedented historical memory, has realized, what the present constellation of the different political, economical and social factors is, though in a twentieth-century dressing, but now repeating that prevailing at the former realization of her idea of European community. Perhaps, **the Church, on the ground of the ‘wondrous similarities in history’ she realized, that the present situation characterizing European and world history – the inevitable process toward a greater economical and, necessarily, political integration** (of which, e.g..., the EMU is the most *irrevocable* sign), the more and more universal flowing and awareness of fundamental human ideas dressed in particular expressions, - **make the grounds of the seemingly obsolete but still enduring principle of absolute state-sovereignty**, together with the liberal conception of society and law rejecting the authority of a supranational moral and political authority, **more and more problematic and unsustainable**.

And what is start to be of crucial importance in our age of multinational, financial empires and financial crises: *not profitable*. The world is in need of a paradigm shift in international – political and economical as well – relations. The lesson of the present financial and economic crises is exactly this. The economic and financial – not to mention the other spheres – problems of our globalized city cannot be handled in a nation-state level longer. The complete foundation interconnectedness of the international community and its markets – due first and foremost to the information revolution and the activity of the multinational companies and financial institutions – cannot tolerate the numerous losses stemming from the fact, that this now existing world society is still *unorganic*. Its members do not accommodate and are not regulated to accommodate their activity to the overall interest of this society – which, by now, starts to become the interest of the individual member, too. The desperate need from the part of these companies and institutions for optimalizing and rationalizing their activities on a *world-level*, cannot be reconciled with the theory of absolute state-sovereignty. The international community seems to be in need of an other foundation. It needs an international authority capable of organizing *in the main lines* (here is a reference to the principle of subsidiarity) the

world-economy and policy. By now, the existence and activity of such authority seems to have become indispensable. But what makes the every effort unsuccessful is the problem of the legitimization of the authority of this organization. To erect it, in an *effective form*, seems to be impossible without changing the fundamental basis of the present paradigm of international relations. And this basis is the *official* non-existence of an universal common good, and objective moral law, the individual members of this international society could be called to account by an international or supranational authority, without the preceding *voluntary* resigning of the member from its absolute sovereignty in the given situation. Changing the paradigm of international community, it seems, requires necessarily the changing of this underlying idea as well. It is the general direction at least, into which the present world-situation seems to lead. And Europe is no exception of course. Rather, the more or less advanced stage of its development toward this kind of integrity, and its so –called common cultural and spiritual heritage could make it even a model for the world. Perhaps, the Church has realized, that in this situation an exceptional vacuum exists again for a universal moral authority, who is capable of proving an ultimate ground for the existence of a sustainable, supranational – and profitable – human society. The thorough-going analysis of this question would go beyond the scope of this paper. What is quite certain however, - and the utmost significance of the present Lineamenta lies here – that in issuing this document, the Church has manifested that she considers the present historical moment as already ripen to *”make full use of it”* again, and her rather challenging concept of reviving the idea of Catholic Europe launched irrevocably. Peter Buda.

8.2

THE CHURCH IN EUROPE

APOSTOLIC EXHORTATIONS

Pope John Paul II

Introduction

A. proclamation of joy for Europe

A second Synod for Europe

From the outset, a deeper appreciation of the theme of hope was the principal goal of the Second Special Assembly for Europe of the Synod of Bishops. P. 124 ...

The synodal assembly had to take up, re-examine and study the issues which surfaced in the preceding Synod of Europe, which was held in 1991, p. 124. ...That first Special Assembly emphasized the urgent need of a “new

evangelization”, in the awareness that “Europe today must not simply appeal to its former Christian heritage: it needs to be able to decide about its future in conformity with the person and message of Jesus Christ. P. 124. ...

The Synod experience, lived with evangelical discernment, also led to a growing awareness of the unity that, without denying the differences derived from historical situations and events *links the various parts of Europe. It is a unity which, rooted in a common Christian inspiration,* is capable of reconciling diverse cultural traditions and which demands, at the level of both society and Church, a constant growth in mutual knowledge open to an increased sharing of individual values. *Apostolic Exhortations*, p. 125. ...

The City of Man

In proclaiming to Europe the Gospel of hope, I will take as a guide the *Book of Revelation*, a “prophetic revelation which discloses to the community of believers the deep and hidden meaning of what is taking place (cf. Rev. 1:1).

The book of Revelation sets before us a word addressed to Christian communities, enabling them to interpret and experience their place in history, with all its questions and its tribulations in the light of the definitive victory of the Lamb who was slain and who rose from the dead. At the same time, it sets before us a word which calls on us to live in a way which rejects the recurring temptation **to construct the city of man apart from God** or even in opposition to him. For should this ever happen, human society itself would sooner or later meet with irreversible failure. P. 126. ...

Among the aspects of this situation, so many of which were frequently mentioned during the Synod, **I would like to mention in a particular way the loss of Europe’s Christian memory and heritage**, accompanied by a kind of practical agnosticism and religious indifference whereby many Europeans give impression of living without spiritual roots and somewhat like heirs who have squandered a patrimony entrusted to them by history. It is of no real surprise, then, **that there are efforts to create a vision of Europe which ignores its religious heritage, and in particular, its profound Christian soul, asserting the rights of the peoples who make up Europe without grafting those rights in to the trunk which is enlivened by the sap of Christianity.** P. 128. ...

From the synodal Assembly there emerged the clear and passionate certainty that **the Church has to offer Europe the most precious of all gifts, a gift which no one else can give: faith in Jesus Christ**, the source of the hope that does not disappoint; a gift which is at the origin of **the spiritual and cultural unity of the European peoples** and which both today and to morrow can make an essential contribution to their development and integration. After twenty centuries, the Church stands at the beginning of the third millennium with a message which is ever the same, a message which constitutes her sole treasure: Jesus Christ is Lord; in him, and in no one else, do we find salvation (cf. Acts 4:12). Christ is the source of hope for Europe and for the whole world, “and the Church is the channel in which the grace pouring from the pierced Heart of the Saviour flows and spreads.” P. 134-135. ...

The Particular Churches in Europe are not simple agencies or private organizations. Rather, they carry out their work with **a specific institutional dimension that merits legal recognition, in full respect for just systems of civil legislation.** In their self-reflection, Christian communities need to appreciate anew that they are a gift which God has given for the enrichment of the peoples living on the continent. P. 136. ...

The Church’s concern for Europe is born of her very nature and mission. Down the centuries **the Church has been closely linked to our continent**, so that Europe’s spiritual face gradually took shape thanks to the efforts of great missionaries, the witness of saints and martyrs, and the tireless efforts of monks and nuns, men and women religious and pastors. From the biblical conception of man Europe drew the best of its humanistic culture,

found inspiration for its artistic and intellectual creations, created systems of law and, not least, advanced the dignity of the person as a subject of inalienable rights. The Church, as the bearer of the Gospel, thus helped to spread and consolidate those values which have made European culture universal. P. 140. ...

Finally, the Gospel of hope is also a forceful summons to conversion in the field of ecumenism. In the conviction that Christian unity corresponds to the Lord's prayer "that they may be one" (cf. Jn 17:11), and that it is essential today for greater credibility in evangelization and the growth of European unity, all the Churches and Ecclesial Communities need to "be assisted and encouraged to see the journey of ecumenism as a 'travelling together' towards Christ" and towards the visible unity which he wills, so that unity in diversity may shine forth within the Church as a gift of the Holy Spirit, the builder of communion. P. 143. ...

Europe yesterday and today has experienced the presence of *important and illustrious examples* of such lay persons. As the Synod Fathers emphasized, grateful mention must be made especially of those men and women who have and who continue to bear witness to Christ and his Gospel by their service to public life and the responsibilities which this entails. It is supremely important "to prompt and sustain specific vocations to serve the common good: persons who after the example and manner of many so-called 'Fathers of Europe' can be builders of tomorrow's European society, **establishing it on a firm spiritual foundation**. P. 148..

Sunday

Consequently I renew my encouragement to "*recover the deepest meaning of the day of the Lord.*" **Sunday should be sanctified by sharing in the Eucharist and by rest enriched with Christian joy and fellowship.** It needs to be celebrated as the heart of all worship, an unceasing prefigurement of unending life, which reinvigorates hope and encourages us on our journey. **There should be no fear, then, of defending the Lord's day against every attack and making every effort to ensure that in the organization of labour it is safeguarded, so that it can be a day ment for man,** to the benefit of all society. Indeed, were Sunday deprived of its original meaning and it were no longer possible to make suitable time for prayer, rest, fellowship and joy, the result could very well be that

"people stay locked within a horizon so limited that they can no longer see 'the heavens'. Hence, though ready to celebrate, they are really incapable of doing so". And without the dimension of celebration, hope would have no home in which to dwell. P. 170. ...

Building a city worthy of man

In building a city worthy of man, a guiding role should be played by the Church's social teaching. Trough this teaching the Church challenges the continent of Europe about the moral quality of its civilization. ...

... It contains points of reference which make it possible to defend the moral structure of freedom, so as to protect European culture and society both from the totalitarian utopia of "justice without freedom" and from the utopia of "freedom without truth" which goes hand in hand with a false concept of "tolerance". Both utopias portend errors and horrors for humanity, as the recent history of Europe sadly attests. P. 178-179. ...

Europe as a promoter of universal values

There can be no doubt that the Christian faith belongs, in a radical and decisive way, to the foundations of European cultures. Christianity in fact has shaped Europe, impressing upon it certain basic values. Modern Europe itself, which has given the democratic ideal and human rights to the world, draws its values from its Christian heritage. More than a geographical area, Europe can be described as "a primarily cultural and historical concept, which denotes a reality born as a continent thanks also to the unifying force of Christianity, which has been capable of integrating peoples and cultures among themselves, and which is intimately linked to the whole of European culture." P. 183. ...

The role of European Institutions

Together with the Synod Fathers, I ask these same European institutions and the individual states of Europe to recognize that *a proper ordering of society must be rooted in authentical ethical and civil values* shared as widely as possible by its citizens; at the same time I would note that these values are the patrimony, in the first place of the various social bodies. It is important that the institutions and the individual states recognize that these

social bodies also include Churches and Ecclesial Communities and other religious organizations. Even more so, in those cases where these already existed before the foundation of European nations, they cannot be reduced to merely private entities but act with a specific institutional import which merits being given serious consideration. In carrying out their functions the various national and European institutions should act in the awareness **that their juridical systems will be fully respectful of democracy, if they provide for forms of “healthy cooperation” with Churches and religious organizations. ...**

In the light of what I have just emphasized, I wish once more to appeal to those drawing up the future European constitutional treaty, so that it will include a reference to the religious and in particular the Christian heritage of Europe. While fully respecting the secular nature of the institutions, I consider it desirable especially that three complementary elements should be recognized: the right of Churches and religious communities to organize themselves freely in conformity with their statutes and proper convictions, respect for the specific structured dialogue between the European Union and those confessions; and respect for the judicial status already enjoyed by the Churches and religious institutions by virtue of the legislation of the member states of the Union. P. 187.

Pope John Paul II, Apostolic Exhortations, Carmel Intern. Publishing House

THE FATHERS OF EUROPE – CATHOLIC SAINTS ?

On Saturday May 29, the vigil of Pentecost, Monsignor Pierre Raffin, Archbishop of Metz (France), officially closed the process for the beatification of Robert Schuman, the “Father of Europe”. A canonical investigation was requested by a group of French, German and Italian Christian laity who, together in the Association “Saint Benedict, Patron of Europe”, founded on August 15, 1988, asked for a canonical process to be opened to ascertain whether Robert Schuman had practiced the Christian virtues in a heroic manner.

The process opened on June 9, 1990. After hearing about two hundred witnesses who had known and frequented Robert Schuman, and after conducting a critical analysis of all the public and private writings of the politician, the **inquiry** was transferred to a theological commission charged with investigating whether a spiritual and moral contradiction to the faith existed in these writings. “This work of rigorous, almost scientific, investigation shows with what care the Church means to proceed before committing its infallibility in a declaration of sainthood”, said Monsignor Raffin. And he added: “The Church not only wants to propose to the people of God incontestable models, but it wants the cult of the saints to be guaranteed free of all error and reflect only the paschal mystery of Christ”.

The volumes of the testimonies and the writings, which fill 50 thousand pages and weigh 500 kilos, were transferred to the Congregation for the Causes of the Saints and will be examined by theological censors. It is awaited that God, through the intercession of Robert Schuman, bring about a miracle which will demonstrate His omnipotence.

Robert Schuman, French minister of Foreign Affairs, on May 9, 1950, in a historical declaration, proposed that the States which had been in combat during the Second World War should pool their production of coal and steel, the cause of centuries of enmity between France and Germany. From there reconciliation between these countries the first European community was born and from it, successively, the actual European Union. In this action, Schuman was helped by two fervent Christians, Konrad Adenauer

and Alcide De Gasperi, as well as by a layman who respected the religious choices the the three: Jean Monnet.

Robert Schuman exercised his political commitment as an apostolate: he applied in public life the principles of his private religious practise.

Brought up in a two culture ambience, French and the German, Schuman experienced in his own life the drama of Franco-German hostility. The sad consequences of this absurd enmity were the inspiring motives of his declaration of May 9: “World peace cannot be guaranteed without creative efforts proportionate to the dangers which threaten it. To maintain peace the contribution of a vital and well-organized Europe is indispensable”.

The commitment of Robert Schuman cannot be understood, in the real depth of his being and doing, without an awareness of his profound inner life. Christian faith and political action were a single thing in him, despite the distinction between the two spheres: his faith determined all his commitment and illuminated his political action.

The spirituality that animated Schuman set the Word of God which directed all his actions at its center. “From it”, he said, “I learn to think like God, instead of repeating the slogans of the world”. From the Eucharist, which he frequented every day, he drew comfort for the difficulties of the day, from his mother he inherited an authentic fervor for the Madonna. From contemplating and prayer he learned to feel himself an instrument in the hands of God: “We are all instruments, even if imperfect, of Providence which uses them for purposes which are above us” he wrote in 1960.

Schuman had an active awareness of the role played by Christianity in the formation of democracy. In the last book he left, *Pour L'Europe*, he writes: “Democracy owes its existence to Christianity. It was born the day man was called to realize in his daily commitment the dignity of the human person in his individual freedom, in the respect of the rights of everyone, and in the practice of brotherly love towards all. Never, before Christ, had similar concept been formulated.”

In the European Parliament on March 19, 1958, he was to say: “All the European Countries are permeated by Christian civilization. It is the soul of Europe which must be restored to it”. And in *Pour l'Europe*: “This

togetherness [of people] cannot and should not remain an economic and technical undertaking. It must be given a soul. Europe will not live and will not be saved except to the degree in which it has awareness of itself and of its responsibilities, when it returns to the Christian principles of solidarity and fraternitiy”.

We do not know whether Robert Schuman will be venerated as a blessed and, successively, as a saint. When the Church declares saints it does not offer “supermen”, it does not claim saints for itself but it proclaims the only sanctity – that of God – which manifests itself through the saints whom He bestows upon us, sanctity that is also written in the life of every man, in all of his situations, in all of his doings.

The Church today has need of lay saints who can serve as models for the faithful, of saints who have lived daily sanctity according to the Gospel. Without anything extraordinary manifesting itself in their lives. Robert Schuman testifies for us that politics can also be a path of sanctity. If today they are so denigrated, it is because sin, rooted in the heart of man, warps them, as it warps everything.

DEMOCRACY AND SUPRANATIONAL GOVERNMENT

10.1

DEMOCRACY AND SUPRA – NATIONAL GOVERNMENT MUTUAL EXCLUSIVE

There is no doubt in John Paul's mind that the Western Globalists are true and powerful contenders in the millennium endgame; or that they are already determining certain contours and aspects of our global life. But that is not to deny specific and practical weaknesses of an important kind in the West's position.

Of the three principal contenders in the struggle to form a new world order, the Western capitalists are the only one who must still form a truly geopolitical structure. The most serious question they face, therefore is whether there can in fact be an organic evolution of the democratic egalitarianism of the capitalist camp into a geopolitical mode.

In this vein, surely it was the recent democratic evolution in Eastern Europe that prompted Francis Fukuyama, a Harvard-trained official in the American State Department, to argue categorically that there can be no organic evolution of democratic egalitarianism into anything further of its own kind. To argue, in fact, that there is no evolution of political thought possible beyond the idea of liberal democracy.

So adamant is Mr. Fukuyama that his persuasion amounts to nothing less than an interdict. A serious argument taken seriously that human thought in the matter of democratic government has reached the outer limit. A serious argument that, if history can be defined not as a series of events, but as the living force of new ideas incarnated in political institutions adequate to vehicle those ideas, then the history of democratic egalitarianism is at an end.

The fundamental idea of democracy – government of, for and by the people, with its ancillary institutions guaranteeing both continuity in

government and fundamental rights on the personal and civic levels of life – is inviolable in its structural elements. Take away any element – the right to vote, say; or the right of free association – and the entire structure loses its integrity. Tip the balance in favor of one institutional arm – executive over legislative, or legislative over judicial – and the orderly system is jiggered. Adopt only one provision of democracy – take the right for free association again – or even three or four, and as Mr. Gorbachev is presently learning the hard way, you will not have anything resembling the democratic egalitarianism of the United States or Great Britain.

The fact of the matter is, however, that any geopolitical structure worth of the name would necessitate an entirely different regime of rights and duties. In a truly one-world order, it would not be possible to regulate an election of high officials in the same manner as democratic egalitarianism requires. General referenda would also be impossible.

So obvious has this difficulty been –and for far longer than Mr. Fukuyama has been on the scene – that warning scenarios have long since been prepared in the democratic capitalist camp itself. Scenarios that show in considerable detail just how and why, in the transition to a world order, the various processes of democracy would have to be shouldered **by select groups, themselves picked by other select groups.**

It takes little imagination to see that such a situation is not likely to lead to egalitarianism, democratic or otherwise. Nor is it likely to lead to wide rolling plains and smiling upland meadows of popular contentment.

Even if the most dour assessment of the globalist structure that is likely to come out of the capitalist design are correct, that is not the only weakness faced by the West. Intent as they are on winning the competition, the Western democracies tend to conceal from themselves two additional problems that are paramount in John Paul's assessment of their likelihood of success.

The first is the problem of time. There is not at the present moment a geopolitical structure – or even the model for such a structure – native to democratic egalitarianism or born from its own specific socio-political

principles. Quite apart from the stark Fukuyama interdict, which indicates that such an elaboration of democratic egalitarianism is now impossible, there does not seem to be any leeway or time available for the champions of Western democracy to attempt such an elaboration. The speed and urgency of events, together with the ongoing geopolitical readiness of Gorbachevism, afford no leisure for cautious experimentation. A new world order is all but upon us, demanding a geopolitical structure in the immediate here and now.

The second is the problem of morality: of a moral base as the necessary mooring for any system; of government, whether national or global. In and of itself, capitalism does not have, nor does it require for its specific functioning, any moral precept or code of morality. What currently passes for such a moral base is nothing more than moral exigency; pressing needs calling for immediate action are responded to on a situation-by-situation basis. *The Keys of this Blood*, Malachi Martin, p. 35-36.

10.2

SUPRA NATIONAL – NOT REPRESENTATION BUT CONSENT

Postnational Democracy

Dr. D. M. Curtin

Mutually Exclusive

At the level of the state, liberal political philosophy is premised on the ideal of representativeness as the basis of the state's legitimacy. In international society *consent* replaces representativeness as the prevailing liberal metaphor. Classical liberals are committed to the idea that international law is a creation of the general will of states expressed through their collective consent. In other words that formation of norms can only be through state consent. Any representativeness that there might be is through the state itself. This theory of classical liberalism has been severely deflated by various critiques, including democratic critiques. This has led to the development of a theory of so-called "democratic liberalism" questioning the democratic credentials of a large number of the states which make up the international order.

In any event, while the concept of the modern state projected the possibility of impartial administration and accountability within communities, it did not make the extension of these notions across peoples and nations a central part of the meaning of the conception of political community. Political integration as such (characterised by notions of identity, loyalty, citizenship, and democratic participation) remained exclusively within the nation-state and has not been projected to the international level. The idea of democracy has been very marginal in the context of international relations. Diplomacy not democracy was the operative idea-structure of international relations. Hedley Bull aptly defined diplomatic culture as "the common stock of ideas and values possessed by the official representatives". Diplomacy was conducted by the executive branches of national governments, in process that were only weakly integrated in to the internal democratic process. *Postnational Democracy*, p. 29-30.

THE EUROPEAN UNION – NOT A DEMOCRACY

11.1

THE EU AND PROFESSIONAL SECRECY

Reforming the Treaty on the European Union

Dr. D.M. Curtin

It is foolish and historically false to suppose that an informed and enlightened citizenry has nothing to do with democracy. Both classical and contemporary

theories of democracy are posited on the belief that secrecy in government

menaces democracy and sets a pattern that follows the political philosophy of a **totalitarian State**. The natural inclination of the governing institutions of a **totalitarian State** is to cut off or suppress information, drawing a veil of secrecy over their archives, their policy and legislative plans and their process of decision-making, in the process elevating structural secrecy to a principle for all areas of government. **On the other hand, in a responsible democracy the sovereign body is the people and it is to them that the governors are accountable.** But to know what they want or what is best the people must be enlightened, at least to some degree. Democratic government thus functions by definition through widespread public deliberations on important issues. As the *Bundesverfassungsgericht* stressed in the Brunner case:

“Democracy, it is not to remain a merely formal principle of accountability, is dependent on the presence of certain pre-legal condition, such as a continuous free debate between opposing social forces, interests and ideas, in which political ideas also become clarified and change course and out of which comes a public opinion which forms the beginnings of political intentions. *That also entails that the decision-making processes of the*

organs exercising sovereign powers and the various political objectives pursued can be generally perceived and understood ...”

Without an adequate flow of information even *ex post facto* accountability of the governors to the people is meaningless. The process of public deliberation is made possible in a democracy by official publication of draft and final decisions, public parliamentary debates and decision making, the accountability of ministers to parliament, the oversight of such external bodies as the court of auditors and the law courts and by enabling members of the public to request access to official documents. It is regarded as essential to the democratic process that individuals are able to understand the decision-making process and the means by which the decision makers have reached their conclusion is in order to effectively evaluate governmental policies and actions and to be able to choose their representative intelligently. An equally important objective of openness in democratic government is to enhance public confidence in the government. As Woodrow Wilson stated in 1884 “Light is the only thing that can sweeten our political atmosphere ... light that will open to view the innermost chambers of government.” *Reforming the Treaty on the European Union*, p. 95-96. ...

The focus on democracy and transparency as linked issues has moreover brought into sharp relief the fact that the most powerful legislator in the EU system; the Council, *legislates* behind closed doors. ... In any event it is certain that a legislative process taking place, in its definitive phase, behind closed doors is unlikely to command the confidence of parliamentarians and the wider public in the Member States. The transparency of the legislative process is essential if a real public opinion is to come into being. Moreover, it is the only way the citizen has of controlling the legislator and of exerting influence on its decisions, either directly or indirectly. *Ibid.* p. 98. ...

The purpose of this paper is *not* to deal with these multifarious proposals, the subject matter of several other sessions during this Conference, except in an incidental and *as hoc* fashion. Rather, I will focus almost exclusively on the **information deficit** as it currently exists and suggest a way in which it could be lessened in a manner which would be relevant even if several proposed institutional changes take place at the level of the EU. ...

Of themselves they will of course not remove the democratic deficit nor transform democracy as an idea and set of practices to the grander scale of transnational government. *Ibid.* p. 99. ...

The fact that its decision making is largely **shrouded in secrecy** is generally explained by the fact that Council decisions are typically reached through painstaking negotiations, starting from a Commission proposal and carried forward by a succession of Presidency compromises, seeking to accommodate delegation problems until the necessary majority is found. The argument is made that if the Council were required to deliberate in public, one of two things would happen: either progress would be blocked, because delegations would be forced to take up immovable positions or the public proceedings would result in theatre, with the real business being done by officials behind closed doors.

Since the very beginning the meetings of the Council have been **cloaked in secrecy**. The matter has been viewed as a question of the internal procedure of the Council and regulated in its rules of procedure. These have consistently provided that the meetings are not public, unless pursuant to a unanimous decision. In addition, no provision was traditionally included enabling publication of the record of how the different delegations voted on a given issue nor of any explanations regarding a vote that might have been made when the vote was actually taken. The question of providing the public with any access to its documents was not explicitly dealt with and would seem to have been ruled out in any event by the categorical provision to the effect that “the deliberations

of the Council are covered by the obligations of **professional secrecy**”. This situation was improved in certain respects in the Rules of Procedure adopted by the Council pursuant to the entry into force of the Maastricht Treaty although the basic paramount rule of the confidentiality of its proceedings is still contained in Article 5(1). In practice therefore this has meant that the standard of Council decision-making **has not changed from secrecy** to openness but merely that some closely circumscribed exceptions are now explicitly permitted as part of a strategy to increase the openness in the *legislative* work of the Council. In the first place public televised debates are to take place on “the six-monthly work programme

submitted by the Presidency and, if appropriate, on the Commission’s annual work programme”. *Ibid.* p. 104.

COMMENT ON THE ARTICLE BY D.M. CURTIN

R. Vaubel

If, by contrast, we take the perspective of the citizens, democracy is necessary to make sure that the government does what the people want. As James Mill (the father of John Stuart Mill) emphasized, the rulers may know better what is good for the citizens than the citizens do, but the rulers, if left to themselves, will not do what is good for the citizens but what is good for themselves. *Ibid.* p. 198. ...

Legislation by the executive(s) does not only impair democracy, it also violates the principle of the separation of powers. There are many such violations in the European Union. As the authors note, it is difficult to accept that the European Parliament does not have the right of legislative initiative (section 3.2.1.), nor do some parliaments of the member States have this right. The Commission should not be the legislative agenda setter. As a civil service, it would not have a right of legislative at all. Nor should its vote affect the required majority in the Council (or in a parliament).

The preponderance of the executive, Commission and Council, is at the heart of the democracy deficit. It explains why the European Union has a bureaucracy bias and why it specialises in catering for organised interest groups which seek special favours (protection, subsidisation, regulation) at the expense of the citizens. *Ibid.* p. 200.

11.2

THE EU AS ONE PEOPLE (DEMOS) DOES NOT EXIST

Reforming the Treaty on the European Union

Dr. J.H.H. Weiler

Report on Citizenship

The European constitutional paradox: the challenge of citizenship and demos

The European Union enjoys powers unparalleled by any other transnational entity. ...

Let us accept the theology of the New Legal Order and constitutionalism. The question still remains – whence the authority?

In Western, liberal democracies public authority requires legitimation through one principal source: the citizens of the polity. The principal hallmark of citizenship is not the enjoyment of human rights – though that may be part of the citizenship package. That is the hallmark of humans. We pride ourselves that we extend human rights to visitors, aliens and the like. **The deepest, most clearly engraved hallmark of citizenship in our democracy is that in citizens vests the power, by majority, to create binding norms, to shape the socio-economic direction of the polity, in fact, all those powers and capacities which,**

I suggested, the Union now has. More realistically, in citizens vests the power to enable and habilitate representative institutions which will exercise governance on behalf of, and for, the citizens. If we seek primary citizenship rights we should look for all the instruments and mechanisms which are there to ensure the mastery of citizens over the polity and its organs. The institutions

and mechanisms of democracy are the repository of primary citizenship rights. Note too, that this huge privilege and power of citizenship has, traditionally, comes with duties – not simply a duty to obey the norms (that falls on non-citizens too) but a duty of loyalty to the polity with well known classical manifestations. The American republican spirit, note, did not rebel against taxation. It rebelled against taxation without representation.

The first big question which citizenship gives rise to is to find the mechanisms to assert the linkage between citizens and the exercise of public authority. Absent those linkages, public authority loses its

legitimacy. Thus, absent European citizens there is a serious problem of legitimate authority which the celebrated **constitutionalisation** accentuates. *Reforming the Treaty on European Union*, p. 60-61. ...

For if the Community and Union have the capacity to exercise law, making power over individuals *independently of national legislation*, by whose authority does it enjoy that power? One could object to my absurd example and claim that in the Union context the States are composed of citizens, not slaves who enabled their States to create institutions which create obligations, etc. That is true, but then one is back to legitimation through the mediation of the State, i.e., through public international law and one waves the “new legal order” good-bye.

One paradox, then, of European Constitutionalism has been that it created a new, no-international, constitutionally oriented legal order in the effect to its norms, but avoided a necessary component of legitimation in the creation of the norms – citizenship. It is not that one has to exclude all norm making authority and legitimating power to States as such. After all, in all federation, States or their equivalent, form part of the legitimation at the federal level. But there must, likewise, be direct legitimation by citizens – *de jure* or *de facto* – at the union level.

Establishing European citizenship would, thus it seems, be one necessary step to resolving that **legitimation deficit**. Vesting that concepts with attributes, mechanisms or instruments that manifest, in a manner not mediated through national, statal institutions, the attributes of citizenship will be the other. ...

The authority and legitimacy of a majority to compel a minority exists only within political boundaries defined by a demos. Simply put, if there is no demos, there can be no democracy. *Reforming the Treaty on European Union*, p. 62 ...

On this view, a parliament without a demos is conceptually impossible, practically despotic. If the European Parliament is not the representative of a people, if the territorial boundaries of the EU do not correspond to its political boundaries, then the writ of such a parliament has only slightly more legitimacy than the writ of an emperor. ...

And citizenship? Citizenship on this view must remain in the exclusive domain of the Member States through whose authority the Community and Union may function with legitimacy. *Ibid.* p. 64.

11.3

THE EU A TOTALITARIAN STATE?

Common Market Law Review 1995

Dr. D.M. Curtin & Dr. Hermann Meijers

The natural inclination of the governing institutions of a totalitarian state is to draw a veil of secrecy over their activities, their archives and, above all, their policy and legislative plans, in the progress elevating structural secrecy to the level of principle for all areas of government. Open government cannot exist in such a state, because openness implies the possibility of exercising public control over government and of empowering the opposition. By definition, democratic government functions through widespread public deliberations on important issues. Democratic power remains in the citizens and for a democratic society to succeed, its citizens must be informed in order to be able to criticize their governors, that is their governing institutions.

A right to public knowledge of government deliberations, albeit a qualified one, is therefore necessary for effective democratic control. Yet some kinds of information may be more critical to citizens in a democracy than other kinds. **In systems which hold respect for and compliance with the “rule of law” as central, the knowledge most fundamental to democracy is legislative knowledge, that pertaining to the origin and rationale behind the law itself.**

The general rule now prevailing in Western Europe and further afield is that legislative assemblies operate under the full glare of publicity whenever they are carrying out their legislative function and that this is an absolute essential component of the democratic systems prevailing in these countries. This fundamental principle applies in all 15 Member States of the European Union. The “publicity” in question at the national level is comprised of multiple elements: open sessions of plenary sittings of

legislative organs, in the majority of cases open committee sessions where legislation is under consideration (as opposed to matters mandating more confidential treatment such as internal security or monetary policy etc.), publication of all draft legislation, *verbatim* reports of debates etc.

Moreover, in addition to this fundamental principle at the root of democracy itself, an increasing number of these same Member States have recognized the fact that the imperatives of democracy also demand that the business of the executive arm should be subject to the scrutiny of the general public. The belief underlying these developments is that the quality of the ultimate decisions will be improved not only by the public’s contribution to the ultimate decision-making process itself but perhaps even more by the knowledge of the decision-makers that they are in the public view. General understanding and acceptance of their purpose may thereby be increased.

Where certain areas of government, which are subject to public accountability within the national system, are transferred for the purpose of European integration to international bodies which accept secretiveness and confidentiality as a basic rule, an important element of national democracy in these areas will have been eliminated since rules of international law clearly prevail over rules of national law. Yet Article F (1) of the TEU recognizes that the systems of government of the Member States are founded upon the “principles of democracy” and guarantees to respect them.

This article is concerned primarily with the transfer of areas of government to the international bodies which were set up by the **Schengen Implementing Agreement** and the **Treaty on European Union** for that purpose. How far does secretiveness within the European institutions go? What is the extent of open government in the context of “**Schengen**” and “**Maastricht**”? Does the transfer of legislative and executive powers by the Member States to “Schengen” and “Union” institutions and bodies imply the simultaneous transfer of the powers to eliminate openness of legislation and government? What were the intentions of the High Contracting Parties in this respect? Does the transfer of power to the European level imply the complete or partial abrogation of openness in every Member State?

Common Market Law Review 32:391-442, 1995, p. 391-393, 1995 Kluwer Academic Publishers, Printed in the Netherlands.

11.4

A BODY OF SECRET LAW

Democracy, Migrants and Police in the EU

Dr. D. M. Curtin and Dr. H. Meijers

No matter what the Executive Committee may have decided in respect of the publication of legally binding decisions (up till now this has not been clearly established), the examples of Schengen decisions which have become public are not encouraging in that they do not reveal any inclination to prevent, as a matter of principle, the development of a body of secret law. **Even if the international rules of law which have been laid down in these decisions – and which take precedence over national law – are implemented in rules of national law which are published, a secret Schengen decision creates a strange inequality between the public body (which knows these decisions) and the private individual (from whom they are kept secret). Legal counsel defending a client whose interests have been affected by a Schengen rule will only be able to invoke the national provisions implementing that rule, whilst his opponent, the state, will have knowledge of the higher rule which is decisive for the correct interpretation of the national rule and must secretly apply that higher rule. There can be no question of equality of arms in such circumstances.** *Democracy, Migrants and Police in the EU*, p. 23. ...

Does European integration imply the reduction of the democratic content of European society?

For the time being it does. In the many areas of government which have been transferred by the European States participating in the integration process to the European executive bodies, there is a loss of supervision over the executive power. The international councils of ministers and their officials who exert executive power at the European level are controlled to a lesser degree and in a more limited way than is usually the case in respect

of national governments, which are controlled by (1) a parliament operating at the same, i.e., the international, level and (2) by an independent court at that level. Within “Schengen” a European parliament and a European court are even **totally absent**.

Both within “Schengen” and the “Union”, the third and perhaps most supporting pillar of democracy, the openness of government, recently has been adversely affected: the European citizen is only permitted to acquire knowledge in piecemeal fashion – and, in certain areas of government, not at all – of what the decision-makers are doing. The conference rooms of the decision-makers (ministers and “senior” officials) usually remain closed to the citizen. The records of votes taken within the European executive bodies usually are not allowed to be made public, and sometimes, even the final decisions – no matter how important they may be for individuals – can be kept secret if the minister of but one state so wishes. Perhaps the interest of the European “citizen” (who in the TEU, at least in name, is given a place of prominence) in all matters of European integration is undermined most by this blocking of the flow of information to the public. The supporting documents with which the ministers and officials making decisions as well as the preparation of their decisions are usually kept secret. In any event, the principle of secrecy is applied in a much more widespread fashion than would normally prevail at the national level. The control of European decision-makers by public opinion, at least, is thus severely impeded. *Ibid.* p. 43-44.

11.5

IN THE EU SUPERVISION OF THE EXECUTIVE IS TOTALLY ABSENT

Postnational Democracy

Dr. D. M. Curtin

The Consolidation of External and Integral Sovereignty

The principle of state sovereignty did not appear out of thin air. It embodies a historically specific account of ethical possibility in the form of

an answer to questions about the nature and location of political community. It drew a clear demarcation between life inside and life outside a centred political community. It became clear that sovereignty had *two* faces. The positive “inside” face of sovereignty referred to a state’s power to regulate its own affairs. It entailed full legislative, executive and judicial power and by its nature such inner sovereignty is divisible among such powers. The principle of (internal) state sovereignty offered a resolution to questions about what political community can be, given the priority of citizenship and particularity over all universalist claims to a common human identity. The negative “outside” view of sovereignty concerned foreign relations. It prescribed that no sovereign state was subject to the power or control of any external actor. This is what is often referred to as *external sovereignty* and is premised on the unitary nature of the state which was not considered at any stage as capable of being divided up. The outside is the place where political community is impossible. What goes on *between* states is thus in principle quite different from what goes on within states: it is relations as opposed to politics. *Postnational Democracy*, p. 12. ...

This statist account of political community was given such a sharp delineation in early modern Europe that it determined ultimately our understanding that the state was the only possible locus of democracy as a system of governance once it emerged in a widespread fashion post the French Revolution. *Ibid.* p. 13. ...

In ancient times man was never definitely recognised as a person ... Only the nineteenth century has scored a general victory with the principle: “man is a person”. (G. Sartori). *Ibid.* p. 18.

Ultimately, “opinion of the governed is the real foundation of all government”. As Thomas Jefferson put it almost two hundred years ago: “I know of no safe depository of the ultimate power of the society but the people themselves, and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but *to inform their discretion*”.

Even within the representative democracy model, the genesis of the will and opinion of the *demos* that elections limit themselves to recording can be regarded as the real foundation of government. That is why the whole

issue of freedom of information is so critical to a proper understanding of liberal democracy. Democratic government functions by definition through widespread public deliberations on important issues. Democracy demands transparency, that the house of power be a house of glass (according to the literal meaning of the word). Secrecy can be said to lie at the very door of power. *Ibid.* p. 22. ...

Transparency is crucial to a proper understanding of liberal democracy as it has developed, I would therefore like to devote it some further attention. Under liberal democratic systems legislation is adopted by Parliament. The general rule prevailing in the liberal democratic systems of Western Europe and further afield is that legislative assemblies operate under the full glare of publicity whenever they are carrying out their legislative function. This is regarded as an absolutely essential component of the liberal democratic systems prevailing in those countries. Information is the currency of democracy. *Ibid.* p. 23. ...

At the level of the state, liberal political philosophy is premised on the ideal of representativeness as the basis of the state’s legitimacy. In international society *consent* replaces representativeness as the prevailing liberal metaphor. Classical liberals are committed to the idea that international law is a creation of the general will of states expressed through their collective consent. Any representativeness that there might be is through the state itself. This theory of classical liberalism had been severely deflated by various critiques, including democratic critiques. This has led to the development of a theory of so-called “democratic liberalism” questioning the democratic credentials of a large number of the states which make up the international order. *Ibid.* p. 29.

THE EUROPEAN ARREST WARRANT

12.1

HOW DOES THE EU ARREST WARRANT WORK?

Gerhard Batten MEP

With contributions from Torquill Dick-Erikson and Fabian Olins

The following rules apply:

- * Any person in any EU member country (not protected by immunity) may be subject to an EU arrest warrant.
- * A court official in any EU member state may issue an arrest warrant to the courts within the member state in which the accused person happens to be, and the warrant must be executed within one month.
- * The warrant does not have to provide prima facie evidence of the crime concerned but merely has to claim that the suspected person is required for investigation for any one of the 32 named categories of offences covered by the warrant.
- * The warrant does not need to detail the substance of the case against the accused.
- * There is no need for a hearing in an English or Scottish court to test even the prima facie evidence of the case.
- * All that is required is that the extracting magistrate should tick one of the 32 alleged offences and state time of offence, degree of participation, and other details.
- * **The warrant can also require the “confiscation and handing over of property that may be required as evidence”, and, “the seizure and**

handling over of property acquired by the requested person as a result of the offence, if known”.

* Provided that the correct information has been filled in and the relevant boxes have been ticked on the extradition form, then the British legal authorities will be obliged to hand over the accused person for extradition.

*The British Home Secretary may appoint “appropriate persons” to execute the arrest warrant. In the future these might possibly be members of Europol the new European police force. **Europol members have immunity from prosecution for, “words spoken or written, and acts performed by them in the exercise of their official functions”. They are above prosecution for anything they might say or do. These are privileges not enjoyed by the NKVD or KGB in the Soviet Union at the height of Stalin’s terror and the repressions of subsequent regimes. Europol will effectively be above the law.**

What happens next?

Once arrested the accused person will be sent to the country that issued the arrest warrant and will be subject to the judicial procedures of that country. The full details of how the accused person will be treated in each EU country are unknown by anyone in Britain. However, no member of the European Union has Habeas Corpus or trial by Jury in the same form as the UK and Ireland.

What are the 32 named “offences” in the European Arrest Warrant?

They are:

1. Participating in a criminal organisation.
2. Terrorism.
3. Trafficking in human beings.
4. The sexual exploitation of children and child pornography.
5. Illicit trafficking in narcotic drugs and psychotropic substances.
6. Illicit trafficking in weapons, munitions and explosives.
7. Corruption.
8. Fraud (including against the European Union’s financial interests).
9. Laundering of the proceeds of crime.
10. Counterfeiting currency, including the euro.

11. Computer related crime.
12. Environmental crime.
13. **Facilitation** of unauthorised entry and residence.
14. Murder, grievous bodily harm.
15. Illicit trade in human organs and tissue.
16. Kidnapping, illegal restraint and hostage taking.
17. Racism and xenophobia.
18. Organised armed robbery.
19. Illicit trafficking in cultural goods, including antiques and works of art.
20. Swindling.
21. Racketeering and extortion.
22. Counterfeiting and piracy of product.
23. Forgery of administrative documents and trafficking therein.
24. Forgery of means of payment.
25. Illicit trafficking in hormonal substances and other growth promoters.
26. Illicit trafficking of nuclear or radioactive materials.
27. Trafficking in stolen vehicles.
28. Rape.
29. Arson.
30. Crimes within the jurisdiction of the International Criminal Tribunal.
31. Unlawful seizure of aircraft\ ships
32. Sabotage.

Consider also “racism” and “xenophobia”. Britain has laws that prohibit specific manifestations of racism, e.g. incitement to racial hatred or violence; but is that the same as racism and xenophobia? Xenophobia has no legal definition in English law; as specific offence would have to be defined. In fact one definition of xenophobia is a morbid fear of foreigners, and therefore is a symptom of mental aberration. It would then seem that under the European Arrest Warrant someone could be arrested, extradited and tried on the basis of displaying the symptoms of a mental disorder.

12.2

THE EUROPEAN ARREST WARRANT IN THE ENGLISH PARLIAMENT AND THE OLD TESTAMENT OF THE BIBLE

European Arrest Warrant: EUC Report

Indeed, “racism and xenophobia” has very recently received a definition in yet another proposed framework decision, which the sub-committee of which I am chairman currently has under scrutiny. That framework decision is intended to require member states to introduce crimes of racism and

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xenophobia which will be common across the Union. It is therefore necessary to define racism and **xenophobia. It is defined as,**

“the belief in race, colour, descent, religion or belief, national or ethnic origin as a factor determining aversion to individuals or groups”.

That is contained in Article 3. Article 4 sets out the offences for which the laws of each member state must provide. It defines racism and xenophobia offences as including,

“public dissemination or distribution of tracts, pictures or other material containing expressions of racism or xenophobia”.

So distribution of, for example, literature containing expressions of belief in race, colour, national origin and so on as a factor determining aversion to individuals or groups would be a criminal offence, and extradition of a person accused of the offence could be sought under the European arrest warrant. The offence in question would almost certainly cover the distribution of Biggles. It would probably cover the distribution of the Old Testament as well. I do not know what the Government’s reaction to that proposal will be – I imagine that it will be a mixture of horror and laughter. But my point for this evening is that if any member state creates offences on those lines – those lines are proposed by the Commission – and prescribes three years’ imprisonment as a possible penalty, we in this country would be expected to extradite the accused under the European arrest warrant. I suggest that those categories of offence need to be made much more specific.

IS THOUGHT A CRIME?

The Daily Telegraph Feb. 18, 2003

But there are also ambiguous crimes such as racism and xenophobia, that are interpreted differently in different countries.

The most significant change is the abolition in most cases of “dual criminality” – the requirement that a person can only be extradited for an action to be considered an offence in both the country seeking extradition and the country being asked to surrender a suspect.

BRITONS FACE EXTRADITION FOR “THOUGHT CRIME” ON NET

By Philip Johnston, Home Affairs Editor

The Daily Telegraph

18th February 2003, pp. 1+2.

British citizens will be extradited for what critics have called a “thought crime” under a new European arrest warrant, the Government has conceded.

Campaigners fear they could even face trial for broadcasting “xenophobic or racists” remarks – such as denying the Holocaust – on an internet chat-room in another country.

The Government has undertaken that if such “offences” take place in Britain the perpetrators would not be extradited – but will be for the courts to decide the location of the crime.

This opens up the prospect of a judge agreeing to extradite someone whose observations, though made in Britain, were broadcast exclusively in a country where they constitute a crime.

Legislation now before Parliament will make “xenophobia and racism” one of 32 crimes for which the European arrest warrant can be issued without the existing safeguard of dual criminality. This requires that an extraditable

offence must also be a crime in the UK. ...

The proposed EU directive would extend the offences of racism and **xenophobia to include discrimination on the ground of religious conviction** – something that was dropped by the Government more than a year ago following fierce opposition. ...

Philip Duly, campaigning manager for the Freedom Association, said the Government should protect citizens from extradition for what he called “thought crimes”.

PLAYING WITH POWER

13.1

1930-1933 GERMANY AN EXAMPLE

Georg Ress

The structural change of the Community resulting from the uniform European document rises the question, how far can such “Législation du Government “ conciliate with the immanent principle of the European Community Law and National Constitutional Law. With the idea of transferring legislation from the parliament unto the government, we are reminded of terrible experiences in the past linked to the German history of law. It is unlikely that this will be repeated on the European level but even slightest beginnings should be avoided. *Verfassungsrecht und Völkerrecht*, p. 627, ed. by Wilfried Fiedler und Georg Ress, Carl Heymanns Verlag KG. Köln-Berlin-Bonn-München, 1989.

13.2

NEO – ABSOLUTISM

Postnational Democracy

Dr. D. M. Curtin

Legislation by the Executor

But this classic account of the “democratic deficit” is too weak a view of the scope and nature of the problem at stake. In fact the problem is much more serious than a lack of parliamentary representation at whatever level should prove most appropriate to the type of decision-making. Coming closer to the heart of the matter, we find there is a further deficit and this time at the level of the separation of powers and in particular the enormous empowerment of the executive which has been a very concrete result of

European integration. This deficit is so ensconced in the entire system of EU governance that it is a difficult task to recapitulate the scope and gravity of the problem in a few short sentences. The tip of the iceberg is the well known fact that the Council, composed of government Ministers, legislates behind closed doors. But the decision-making of this legislative authority is prepared by a massive circus of committees composed of national civil servants and technical experts, they too operating behind closed doors and in virtual secrecy. Pioneering work undertaken by the Rotterdam political scientist, Rinus van Schendelen, has recently shown how pervasive this system is and how in fact a significant number of the Council’s decisions are actually taken in all their details by the Council’s preparatory committees, simply being rubber stamped as so-called “A” points on the Councils Agenda. National civil servants in conclave taking legislative decisions is far removed from even the thinnest notion of democracy as we know it in the nation-states. Neo-absolutism is present in a particularly aggravated form in the context of decision-making in the third pillar where the empowerment of the executive and of civil servants has been institutionalised particularly strongly. *Postnational Democracy*, p. 45-46.

1 Appendix

DANIEL 2, IRON AND CLAY - CHURCH AND STATE

The Background of the Prophecies in Daniel 2

1. The Magicians of Babel – Tested about their Knowledge of Things already taken place.

There is a strange harmony between the demands of the king of Babel to his magicians and the challenge of God to the world, as given by the mouth of Isaiah:

“Let them bring them forth, and shew us what shall happen; let them shew the former things, what they be, that we may consider them, and know the latter end of them; or declare us things for to come. Shew the things that are to come hereafter, that we may know that ye are gods: yea, do good, or do evil, that we may be dismayed, and behold it together”. Isa. 41:22, 23.

Nebuchadnezzar said:

“But if ye will not make known unto me the dream, there is but one decree for you; for ye have prepared lying and corrupt words to speak before me, till the time be changed”. Dan. 2:9.

To put it this way: just tell me what I dreamed last night, then shall I have confidence in your predictions for the future. Generally, we dwell with our thoughts too little upon the past. Because of this we often know so little about the future. But God has all things under His control, the past as well as the future. He is completely familiar with it and nothing happens without His knowledge. For this reason God is also the only one who is able to guide us. He does it with great wisdom.

“And he changeth the times and the seasons; her removeth kings and setteth up kings; he giveth wisdom unto the wise, and knowledge to them that know understanding “. Dan. 2:21.

Sometimes one may get the idea, that the history of this world is just a big chaos. But this is not true at all. *In Daniel 2*, God is giving us the complete picture of the history of mankind – symbolized by the image of a man.

2. Astrology

The wise men of Babel in this chapter are divided into four categories: the magicians, the sorcerers, the astrologers and the Chaldeans. From the report in Daniel 2 it is evident, that the astrologers, the magicians, the sorcerers, and Chaldeans were altogether unable to say anything about the past, nor of the future that would make any sense. Today it is just the same. We are clearly forbidden by the word of God to have anything to do with the things of the occult. (*Isa. 8:19,20; Deut. 18: 10-12; 2Chron. 33:6; 2Kings 17:17; Acts 16:16-19*).

These occult things are dominated by the enemies of God and man – namely by evil spirits. The Scriptures forbid us any contact with evil spirits (*Isa. 8:19; Deut. 18:11*).

But God is very gracious and gave the “lords” of Babylon the opportunity to return to Him, by showing them His love and mercy. The appearing of Daniel before the king meant life for them (*Dan. 2:24*). The king had despised their skill and had a very poor opinion about them; *“... for ye have prepared lying and corrupt words to speak before me, till the time be changed” Dan. 2:9*. The king’s opinion can be confirmed again today in the realities of our time. According to the statistics of fortune telling, astrology, telepathy, etc., come as close as the scattering shot from a gun. The oracle of Delphi is a perfect example. The answers were so ambiguous that one could construe almost anything from them.

3. Daniel and his Friends – how they met the Crisis

When Daniel saw the life of his friends and his own in jeopardy, he humbled himself before God in earnest prayer. He spoke to God and entreated Him that He would aid in this emergency. And God did intervene marvellously. One of the reasons, yes actually the cause why Daniel reflected such an excellent personality, lay in the fact, that he conversed with the Most High. God requires of us to “walk humbly before him” (*Mic.*

6:8). To walk with Him, to talk with Him in our difficulties, our problems, our distress and also share with Him our happiness and joy.

So it was with Daniel and his friends. God heard their prayers and answered them and they praised and thanked Him for the wonderful outcome.

The Dream and its Interpretation

“Thou art this head of gold”

Babylon was the great metropolis of the ancient world. The Bible calls it the golden cup, the glory of kingdoms. Babylon was also a center of religion. It was the center of worldwide idolatry. During the reign of Nebuchadnezzar this kingdom became the queen of the earth. Babylon, fortified with thick walls seemed to be impregnable. The river Euphrates flowing right through the city, constituted its lifeline. Babylon was called the eternal city.

“And after thee shall arise another kingdom, inferior to thee”

Cyrus the Great was commander of the troops, when in 538 B.C. in a most dramatic way Babylon fell into the hands of the Medes and Persians. This empire was greater in regard to geographical expansion than the Babylon Empire, but it was “*inferior*” in prosperity, luxury, and attraction (see also Dan. 5:25-30).

“And another third kingdom of brass”

Alexander the Great conquered the Persian kingdom in 331 B.C. in the battle of Arbela. The Greek Empire was at that time the kingdom of greatest geographical extent (see also Dan. 8:3-7, 20, 21; 10:20).

“And the fourth kingdom shall be strong as iron”

The testimony of world history and also biblical history (*Luke 2:2*) point to Rome as the fourth kingdom. Gibbon, the best historian about the Roman Empire, describes the march of triumph with the following words:

The arms of the republic sometimes vanquished in battle, always victorious in war, advanced with rapid steps to the Euphrates, the Danube, the Rhine, and the Ocean; and the image of gold, or silver, or brass, that might serve to represent the nations and their kings, were successively broken by the iron monarchy of Rome. *Decline and Fall of the Roman Empire*, Vol. II, p. 62. New York, edition Milman.

By terror and brutal force were all rivals exterminated, every resistance crushed and an absolute, as well as dreadful tyranny was in power.

“The feet and toes, part of potters clay, and part of iron”

The Roman Empire would become divided in two ways:

A: During Constantine the Great, the church united with the state.

B: With the migration of nations would the Roman Empire become invaded by

foreign tribes, especially the Western-Roman realm. The Western-Roman Empire was then divided into ten parts, which developed into the ten nations of Western Europe.

We shall now take a closer look how this division came about.

A. The Division from within

The politics of Constantine the Great about the uniting of the church with the state, was taken up by the nations of Western Europe and further developed. The church was made a state in the state. “*Imperium in Imperio*”. Quite a number of scholars considered this as one of the particular characteristics of Europe. For more than fourteen centuries, Europe had two societies side by side. Guinot says about this:

“They united and mingled themselves, though without mixing. The barbarians accepted Christianity; the Christian clergy associated themselves with the aristocrats of the barbarians. Yet both people, both societies kept loyal to their own kind. They established both of them

- their own offices
- their own establishments
- their own laws
- their own jurisdiction
- their own army
- their own head of state or sovereign.

My lords, I beg you never forget those differences”. Guinot, *II.Lecture about Civilisation in France*.

Rudolph Sohm emphasizes in his second volume of “*Kirchenrecht*” (Canon-Law), that in the Middle Ages, Western-Europe was formed through the most unique situation in history.

1. There were two people, two societies. They laity and the clergy

2. At the head of these two people was the king or emperor the head of the laity, and the bishop of Rome, the pope, the head of the clergy.

3. There were also two systems of administration of justice.

The clerical law and the secular law. (*Kirchenrecht*, Vol. II), p. 226-251.

And yet there was always “a conflict between the secular and the clerical law” (Hans von Schubert). A conflict between the emperor and the pope. Just as we can read in *Daniel 2*:

“And whereas thou sawest iron mixed with miry clay, they shall mingle themselves with the seed of man; but they shall not cleave one to another, even as iron is not mixed with clay” Dan. 2:43.

Mingled with the seed of “*man*”. This is a unique expression. All nations are divided by the seed of man. This kingdom mingled with the seed of man. Both iron and clay, the officers in church and state came from the same fathers and the same mothers. One part of seed became iron the other part clay. The bishop and the general come from the same families. The soldiers and the monks too. Two nations from the same seed. And they mingled again. This is unique in world history.

B. The Outer Division

The division of the ten toes of the image

Though in the second chapter of Daniel the numbers of the toes are not given, we can read, that the fourth kingdom would be divided into “*ten kingdoms*”, see Daniel chapter seven. This was literally fulfilled in the fifth century.

When the power of Rome was weakened as a result of its voluptuous, luxury lifestyle, it could not stand against the constant invasions of the rough barbarian tribes coming from the north and the east of Europe. Gibbon and also other historians stated, that ten tribes occupied the land of the Western-Roman Empire. These form today the modern states of Europe. The tribes which settled down in the Western-Roman Empire were:

The Visigoths, Lombards, Franks, Burgundians, Vandals, Heruli, Sueves, Anglo-Saxons, Alemanni, Ostrogoths.

History testifies of the accuracy of the prophecies in the book of Daniel. Some of the tribes were strong, others were weak. The prophecy talks about a quarrelsome family, which actually never formed a nation. There have been numerous attempts in the uniting of Western-Europe. Marriages between the various royal families, wars and battles, diplomatic and political efforts, every attempt was made to unite Europe, but nothing was of lasting success. The prophecies speak of ten, not more, not less.

Such was the situation in the ancient western part of the Roman Empire. Today we have: Spain, Italy, France, Switzerland, Portugal, England, Germany, Belgium, Netherlands, Austria.

One Empire – One State

“The kingdom shall be partly strong, and partly weak”

As we have seen, the Western-Roman Empire was divided into ten kingdoms. It is an external division. Just before we noticed already a division within the Empire. A state within the state. A state in which the

church and the state had their own laws. We will now look at another detail. Western-Europe during the Middle Ages really had to be considered as one empire. Leopold von Ranke says this about the Middle Ages:

“A smart thought flashed into my mind and I am convinced it is right to say, that the complex of Europe’s Christian nations ought to be seen as one, as it were one state, otherwise the enormous difference between the occidental and the oriental world, and the similarity existing between the Romanic and Teutonic tribes, could not be comprehended so easily. Going from this point of view, we considered the Crusades to be an external operation of Christianity and look now to the internal affairs of this complex of nations, as what we consider the relation between the individual princes and the pope”. Leopold von Ranke, *Über die Epochen der neueren Geschichte*, p. 70.

Dr. Döllinger wrote in his book *“The Church and the Churches”* :

In short, the whole of Western Christendom formed in a certain sense, a kingdom, with pope and emperor at the head. The first however, was continually increasing in power and dominance. P. 42-43.

Thomas Lindsay in his book *“History of the Reformation”*:

Hence it came to pass, in the earlier Middle Ages, as Mr. Freeman says, “The two great powers in Western Europe were the church and the emperor, and the center of each, in imagination at least, was Rome. Both of these went on through the settlements of the German nations, and both in a manner drew new powers from the change of things. Men believed more than ever that Rome was the lawful and natural center of the world. For it was held that there were of divine

right two vicars of God upon earth, the Roman emperor, His vicar in temporal things, and the Roman bishop, His vicar in spiritual things”. This belief did not interfere with the existence either of separate commonwealths, principalities, or of national churches. But it was held that the Roman emperor, who was the lord of the world, was of right the head of all temporal states, and the Roman bishop, the pope, was the head of all churches. P. 31-32.

To make it short: gold, silver, brass, and iron mixed with clay, represented in sequences: Babylon, Medo-Persia, Greece and Rome. In the Roman Empire the church finds her niche. Church and state unite in 312 A.D. during Constantine the Great. This fusion of church and state dominates the history of the entire medieval era. The empire was divided within, and emperor and pope constantly were at war with each other. And yet they nevertheless constituted in a certain sense one kingdom, though there were ten single nations. This is a unique situation. The French Revolution made an end to all of this. But the Roman Catholic Church intends again to set up the “Holy, Roman Empire”. Several states together – though sovereign, make up one state! Upon this concept the Roman power is to come up again.

The last efforts to do this rest upon the “Roman Treaties”. The European Union united, yet divided, but bound together by the Roman Catholic Church.

2 Appendix

DANIEL 7, WAR AGAINST GOD'S PEOPLE AND GOD'S LAW

The Four Prophetic Empires:

Babylon, Medo-Persia, Greece and Rome. These are illustrated in symbols of ferocious beasts, rising out of the water. As the symbols of water and sea indicate, those empires came to power through war, terror and revolutions among the nations.

The true character of these kingdoms is being represented by savage, ferocious beasts. These beasts are driven by egotism and lust for power. The kingdom of Christ is represented by a lamb, the symbol of selflessness, humility and self-denial.

The Lion ...

stands for Babylon (*see Jer. 4:7*). The winged lion was a very favoured status symbol in ancient Babylon.

The Bear ...

represents Medo-Persia. That it raised itself up on one side, shows the dominating supremacy of the Medes within this two-nation empire (*see Dan. 8:3,20*). The three ribs represent the three nations conquered by the Medes and Persians: Lybia, Babylon and Egypt. The bear, though of overpowering strength, is clumsy and awkward. These characteristics exactly describe the big and vast Persian Empire, difficult to rule. The big and undisciplined armies were actually no threatening opponents for the swift and nimble troops of Alexander the Great.

The Leopard ...

with the four wings it is a symbol of the incredible speed by which the Greek Empire conquered the world under the leading of Alexander the Great. After the death of Alexander, the empire was divided unto four generals: Ptolemy, Seleucus, Cassander and Lysimachus. These four

provinces, illustrated by the four heads of the leopard, are also known as the Diadochi Kings.

The Beast beyond Description ...

The fourth beast represents the fourth kingdom, the Roman Empire. There is in nature no such creature that could symbolize the power and terror of the Roman Empire. The iron teeth and the stamping feet crushing everything, correspond with the feet of iron in *Daniel 2*.

The thoughts of the prophet dwelt the longest upon the fourth beast. In the first fourteen verses the prophet describes the vision. From *verse 15-22* he asks the questions arising from them and those which still remained, and from *verse 23 to 28* the angel again explains the vision.

Daniel does especially concentrate upon the fourth beast and the themes connected with it. We shall again follow in detail what the prophet saw, the questions he raised, and the answers from the angel concerning those questions.

In the Vision

1. It was dreadful, terrible and strong exceedingly
2. It devoured and brake in pieces and stamped the residue with its feet
3. It was diverse from all the others
4. It had ten horns
5. There came up another horn, before whom were three other horns plucked up
6. In this horn were eyes like the eyes of man ...
7. And a mouth speaking great things
8. At last the beast was given to the burning flames

The Questions

1. It was incredibly dreadful
2. It devoured and brake and stamped all that remained
3. The fourth beast was diverse from all the other beasts

4. It had ten horns
5. The little horn which came up, and before whom three fell
6. This horn had eyes ...
7. And a mouth speaking great things
8. The horn was more stout than his fellows
9. The little horn made war against the saints and overcame them
10. This was until the judgment

The Answers of the Angel

1. The fourth kingdom is diverse from all other kingdoms
2. It shall devour all nations, brake in pieces and stamp upon them
3. It had ten horns
4. After the ten horns comes up another horn, which is diverse from the ten and shall pluck up three of them
5. a) This horn speaks great words against the most High

b) The saints of the most High would be destroyed by that great horn

c) It shall think to change times and laws
6. The length of time: The times, the law and the saints shall be in his hands: *“a time, times and the dividing of times”*
7. The judgment shall take away his dominion
8. At the end it will be totally destroyed and consumed

The Explanation:

The Roman Empire

1. The Roman Empire was diverse from all other kingdoms in that it was a republic. The Roman people were governed by the Senate and the people. The two consuls were elected every year. The Senate was the government, the people had the power.
2. The Roman Empire devoured, brake in pieces and stamped the whole earth. Rome was the first nation, that ruled over the entire known world at that time. *“It shall devour the whole earth, and shall tread it down, and*

brake in pieces”. The Romans were terribly cruel. The persecuted Christians burning as torches in the garden of Nero, are only one example. Circumstances, like the death of John the Baptist, whose head was presented to the assembled guests in a charger, seemed to have been a very normal procedure.

That Rome devoured and brake in pieces and stamped the residue with its feet,

proved true also in another way. 600 long years the world had been exploited to feed the Roman people who were exempt from taxes. Sometimes it happened, that the people were given free wine, oil, bread and pork, while they enjoyed themselves in the circus with all sorts of vulgarities and violence. *“It devoured”*. The Romans had to have “bread and games”, otherwise they were not content.

3. Out of this kingdom were to come ten horns. The Roman Empire declined and fell because of the migration of the nations. Ten tribes – nations, overflowed the empire and settled themselves there. It is not necessary to mention specifically, that this caused war and tumult. But finally ten nations had established themselves. The Anglo-Saxons, the Alemanni, the Franks, the Burgundians, the Suevis, the Vandals, the Visigoths, the Ostrogoths, the Lombards, the Heruli. That means, from those seven tribes grew nations. The other three tribes: the Vandals, Heruli and Ostrogoths were later entirely wiped out. Today we have again ten nations in the territory of the Western –Roman Empire:

Portugal, Spain, Italy, France, Switzerland, England, Netherlands, Belgium, Germany, Austria.

The Papacy

The little horn. As the Roman Empire weakened and disintegrated by the migrating nations, and the ten tribes had settled themselves, there came up a little horn. We will now study closely this little horn:

A. The characteristics of this little horn – it is a nation- state

As the fourth beast was diverse from the others in that it was a republic and not a monarchy, so the little horn differs from the other ten horns before him. “*And another shall rise after them; and he shall be diverse from the first*” (vs. 24). The little horn was not only a kingdom, it was priestly kingdom with a priestly-king at the head. The following verses point out that this kingdom is to be grounded upon a religious basis. It is a religious-political power. It is the bishop of Rome.

B. The geographical location of the little horn

The little horn comes up among the ten horns. Therefore it must be found within the territory of the Western-Roman Empire among the ten nations of Western Europe. And it is the bishop of Rome, the “Holy See”.

C. The origin of the little horn

The little horn grew slowly and became stronger and stronger. Thus the power of the bishop of Rome increased steadily.

D. The chronological position of the little horn

The little horn came up while the ten kingdoms were already in occupation of the Western-Roman Empire. It established itself by helping to wipe out three of these kingdoms. Its origin began after the fall of the Roman Empire in the year 476 A.D. It was to rule 1260 year/days and finally will at the return of the Lord “*be given to the burning flames*” (vs. 11).

E. The way and manner the little horn came to power

The other three horns were plucked up. The prophecy says: “*there came up among them another little horn, before whom three fell, of the first horns, plucked up by the roots*” vs. 8.

“*And of the other which came up, and before whom three fell*” vs. 20. “*And it shall be diverse from the first, and he shall subdue three kings*” vs. 24. The three horns rooted up or fallen, being completely exterminated, were the Heruli (493), the Vandals (534) and the Ostrogoths (538).

Milman comments:

The conquest of Italy by the Greeks was, to a great extent at least, the work of the Catholic clergy ... the overthrow of the Gothic kingdom was to Italy an unmitigated evil. A monarch like Witiges or Totila would soon have repaired the mischief caused by the degenerate successors of Theodoric, Athalaric, and Theodotius. In their overthrow began the fatal policy of the Roman See, ... which never would permit a powerful native kingdom to unite Italy, or a very large part of it, under one dominion. Whatever it may have been to Christendom, the papacy has been the eternal, implacable foe of Italian independence and Italian unity; and so (as far as in dependence and unity might have given dignity, political weight, and prosperity) to the welfare of Italy. Milman, *History of Latin Christianity*, Vol. 3, chap. 4 last pp; see also A.T. Jones *Ecclesiastical Empire*, p. 208.

The annihilation of the last of the three tribes, the Ostrogoths, was according to Milman the beginning of a fatal politic of the papacy. And this is just what Daniel had prophesied.

Rev. J.A. Wylie says to this:

The overthrow of the Ostrogoths and Vandals about this time, by the arms of Belisarius, contributed also to the expansion of the papacy. The former had established themselves in Italy, and the latter in Sardinia and Corsica; and their near presence enabled them to overawe the popedom; but their expiration by the victorious general of Justinian rid the pope of these formidable neighbours, and tended to the authority as well as the security of the Roman See. *The Papacy*, p. 42.

F. “They shall be given into his hands”

In verse 25 it says, that the “*saints of the most High*”, and “*times and laws*” be given into his hands, “*a time, times and the dividing of times*”. The time-period mentioned here is repeated in scripture several times.

1. Dan. 12:7: “*a time, times and a half*”

2. Rev. 12:6-14: “*a time, and times, and half a time*’ (vs. 14),

“a thousand two hundred and threescore days” (vs. 6). Here it says about the woman in the wilderness, that she was to be 1260 days, i.e. a time, times and a half = 360+720+180=1260 days in the wilderness.

3. Rev. 3: 11:2: “and the holy city shall they tread under feet forty and two months”. These are 42x30 days. A biblical month is about 30 days.

4. Rev. 11:3: “And I will give power unto my two witnesses, and they shall prophesy a thousand two hundred and threescore days”.

5. Rev. 13:5: “to continue forty and two months”.

Both, the Revelation of John and the book of Daniel speak about, that “power was given unto him” for a period of 1260 year days. The Greek word for power in *Revelation 13*, means according to the dictionary, actually: “ability to do or act; the possession of control over others; judicial power, this the power of attorney”.

Was it really so that the pope received such power, judicial power over the saints, as the prophecies say? Because these explicitly tell us, that the saints, that is the church and worship be given into his hands for 1260 years.

The Beginning of the 1260 Years

The Power of the Papacy is anchored in the Law

Mr. Faber argues, I think rightly, when he says, that the giving of the saints into the hand of the papacy must be by some formal act of the secular power of that empire constituting the pope to be the head of the church. It is not, in fact, easy to conceive in what other mode the saints could be delivered into the hand of a spiritual authority, which in its infancy at least, must have been in a great measure dependent upon the secular power for its very existence, and much more for every degree of active power which it was permitted to assume or exercise. ...

Accordingly we are informed, by the unerring testimony of history, that an act of the secular government of the empire was issued in the reign of

Justinian, whereby the Roman Pontiff was solemnly acknowledged to be the head of the church. ...

The epistle which was addressed to the pope, and another to the Patriarch of Constantinople, were inserted in the volume of the civil law; thus the sentiments contained in them obtained the sanction of the supreme legislative authority of the empire; and in both epistles, the above titles were given to the pope.

The answer of the pope to the imperial epistle was also published with the other documents: and it is equally important, inasmuch as it shows that he understood the reference that had been made to him, as being a formal recognition of the supremacy of the See of Rome. ...

From the date of the imperial epistle of Justinian to Pope John, in March 533, the saints, and times, and laws of the church, can therefore be considered to have been formally delivered into the hands of the papacy, and this is consequently the true era of the 1260 years. *A Dissertation on the Seals and Trumpets of the Apocalypse*, William Cunningham, Esq. p. 185, 186, 4th edit. London: Thomas Cadell, 1843.

Elliott is quoting two Jesuits, to make plain how the formal act, we are discussing here came to pass:

This epoch has not been fixed on, as a fit commencing epoch to the period of papal supremacy, for the first time by modern commentators; or with a view only to the support of ex-post fact prophetic theories, that regard the French Revolution as the correspondent terminating epoch. It is an epoch noted by Protestant commentators, such as Brightman, Cressner, Mann, etc., anterior to the time of the French Revolution. Nay, Romanists too have remarked as early on it; for example the Jesuit Gordon, and Gothofred, the learned editor of Justinians’s *Corpus Juris*. **The latter especially, speaking of Justinian’s decretal epistle to the pope, notes it as the first imperial recognition of the primacy of Rome over Constantinople; i.e., of the absolute primacy.** “It is hence evident”, he says, “that they who suppose Phocas to have been the first that gave imperial recognition to the primacy of the Roman See over that of Constantinople are in error; Justinian having acknowledged it before”. *Hora Apocalyptica*, Rev. E.B. Elliott, A.M., Vol. III, p. 253, 3rd edition, London: Seeley, Burnside, and Seeley, 1847.

Thus it was in the year of 533, that the legislative power of the empire vested the pope with authority to be head over all churches. But as long as the Goth's which did not belong to the Catholic faith, were the rulers of Rome, this order could not be effectively enforced. But after the Goth's had been put out of the way, this law became effective.

The Exercising of this Power during the 1260 Years

The devotion of the clergy to the civil law of Rome was marked with great fervour during the early medieval period following the disruption of the lineal Roman Empire of the West in 476 A.D. More than this: during the entire Middle Ages the clergy, whether of Germanic origin or not, never submitted to any of the barbarous Teutonic law. The Roman law was always the personal law of the clergy; it followed them wherever they went. As fast as ecclesiastical courts obtained a foothold or increased their jurisdiction, they always applied the refined principles of the Roman law. This body of church law – to a very large degree secular- received after a time the generic name of “Canon law”. ...

Furthermore, as the papacy increased in strength, the entire organization of the Roman Catholic Church became pervaded with and was modelled in the spirit and system of the imperialistic government of the old Roman Empire. The papacy was and is today in many respects a historical continuation of the ancient Roman Empire, - “The ghost of the old empire” is Hobbes' famous characterization of the papacy. ...

How enormously great has been the influence of Roman law upon the Roman Catholic Church is to be seen in the latter's present centralization of power, in the absolute superiority and supremacy of the pope, in its administration so akin to that of the Roman Empire of Constantine's time, and in its universal system of church law. *Canon law, the modern realm of the Roman law*, p. 217-218.

It cannot be said any plainer, that the Roman Catholic Church and the Protestant churches, insofar as they exercised judicial power, did this on the basis of the Justinian law. And this during the entire Middle Ages.

Prof. Dr. Sägmüller proves this in an article with the main thought the church being the Imperium Romanum, and this because of her canon law.

Thus the church considered herself during the entire Middle Age as a continuation of the Roman Empire. Even more yet, all this took place within the territory of the Roman Empire.

According to the principle of personal law, thus the Teutonic people lived in this new realm according to Teutonic law, and the Romans according to Roman law. Even the church applied Roman law, though the church was dispersed throughout many states, yet bonded by this law like into one state, the *Romania de Orosius*. ...

By this existing premises it was a rather logical conclusion, when the Christians were all called “*Romans*”. To them as well as to the Romans themselves, without further ado in regard to civilian legal relationship, the Roman law could be applied which the church was increasingly putting on agenda.

Of course, the religious courts reduced the use of the Roman law as such more and more, because the canon law as it developed covered and dealt independently even in civilian matters. But by doing this it borrowed extensively from the Roman law. *Die Idee von der Kirche als Imperium Romanum, (The concept about the church as Imperium Romanum)*, Prof. Dr. Sägmüller, p. 67,74-75.

Rudolph Sohm comments:

The church first stepped out being Roman. It was recognized and legally accepted as such even by the Teutonic people, the lords of the new era. The Ribuaric Right of the people (about 630 A.D.) contained the renown sentence; “*Ecclesia vivit lege Romana*”, that is, the Roman law is the personal law of the clergy. Like the Franks were being judged by Frankish law, the Longobards by Longobardian law, so has the clergy been judged by the Roman law. Thus the ancient German interpretation of law itself contributed to see the church as being Roman, and thus smoothed for the church the path of Roman law into the new era. *Kirchenrecht*, p. 20,21; A. Erlar, Munich 1975.

The End of the 1260 Years

The ending of the twelve-hundred and sixty years was also the end of the Roman law. In other words, the church vanishes from the realm of the law. Rudolph Sohm, a splendid lawyer and professor of Leipzig, calling himself a faithful Lutheran, occupied himself with canon law and produces a number of impressive statements in regard to the Illumination movement and the political instrument of this Illumination, the French Revolution. In 1798 through Napoleon (General Berthier) the pope was taken captive and Rome was declared a republic. This was the end for the Catholic canonical law as the basis of legal law and therefore also the end of the Roman law. The *Codex Napoleon* was decreed in 1806, thus replacing the *Codex Justinian*.

The triumph of toleration means that at present the idea – a church organisation being the authority over law and order – has altogether been abandoned. This also means, that in the entire western civilization only secular authority and secular law is supreme. Religious authority and religious laws have no place within the realm of the modern law-system, that is being governed by the idea of toleration. The church of Christ is no more the source of laws, she can no longer produce binding statutes, for her dominion is extinct. The Protestant concept triumphed. ...

Also in Germany the church has no voice in legal matters. How could in this present age religious law, produced by the church be conceivable? ...

Thus in the realm of law and order of today is no place for the ideology of Catholicism. The historical development pushed it from its platform of jurisdiction. From the point of law there is no visible church of Christ and therefore no binding religious law in connection with ecclesiastic authority.

Thus for today's secular system, the supremacy of the Catholic Church with her popes and bishops as ruling power is extinct. She became a power of mere religious nature, without any effect upon the secular system. At the same time canon law ceased being the binding law. The only effective law is secular law (the law of the state). *Kirchenrecht*, Vol. 2, Munich-Leipzig 1923, Rudolph Sohm.

And with this we have the historical evidence, that the 1260 years, in the which the bishop of Rome had power over the saints, the times and the law or at least had them in his hands, ended. It was being realized in an political

event of greatest significance: the imprisonment of the pope, and the proclaiming of Rome as a republic.

1) The Little Horn persecutes the Saints and destroys them

That the church of Rome has shed more innocent blood than any other institution that has ever existed among mankind, will be questioned by no Protestant who has a competent knowledge of history. The memorials, indeed, of many of her persecutions are now so scanty that it is impossible to form a complete conception of the multitude of her victims, and it is quite certain that no powers of imagination can adequately realize their sufferings. *History of the Rise and Influence of the Spirit of Rationalism in Europe*, William Edward Hartpole Lecky, Vol. 2, p. 32. London: Longmans, Green & Co., 1904.

Under these maxims Rome has always acted. What a long roll of bloody persecutions is here recorded! The extirpation of the Albigenses, the massacre of the Waldenses, the martyrdoms of the Lollards, the slaughter of the Bohemians, the burning of Huss, Jerome, Savonarola, Frith, Tyndale, Ridley, Hooper, Cranmer, Latimer, and thousands of others as godly and faithful as they, have been her acts; the demonical cruelties of the Inquisition were invented by her mind and inflicted by her hand – that Inquisition which was for centuries the mighty instrument of her warfare against devoted men and women whose crime was only this, that they kept “*the commandments of God and had the faith of Jesus.*”...

The ferocious cruelties of the Duke of Alva in the Netherlands; the bloody martyrdoms of Queen Mary's reign; the extinction by fire and sword of the Reformation in Spain and Portugal and Poland; the Massacre of St. Bartholomew; the long and cruel persecution of the Huguenots, and all the infamies and barbarities of the revocation of the Edict of Nantes, which flung its refugees on every shore of Europe, were perpetrated by papal Rome. Her victims have been innumerable. In Spain alone Llorente reckons as the sufferers of the Inquisition 31,912 burnt alive, and 291,450 so-called penitents forced into submission “by water, weights, fire, pulleys, and screws”, and “the apparatus by which the sinews could be strained without cracking, and the bones bruised without breaking, and the body racked exquisitely without giving up the ghost”.

A million perished in the massacre of the Albigenses.

In the thirty years which followed the first institution of the Jesuits nine hundred thousand faithful Christians were slain. Thirty-six thousand were dispatched by the common executioner in the Netherlands, by the direction of the Duke of Alva, who boasted of the deed. Fifty thousand Flemings and Germans were hanged, burnt, or buried alive under Charles V. And when we have added to this the bloodshed of the Thirty Year's War in Germany, and the long agony of other and repeated massacres of Protestants in England, Ireland, Scotland, France, Spain, Italy, and the Netherlands, we have to remember that for all this "no word of censure ever issued from the Vatican, except in the brief interval when statesman and soldiers grew weary of bloodshed and looked for means to admit the heretics to grace. *Key to the Apocolypse*, H. Grattan Guinness, D.D., pp. 91-04. London: Hodder and Stoughton, 1899.

And the code of Justinian insists that religious unity must be maintained at all costs – that principle which caused Europe in subsequent centuries to suffer greatly. *Roman Law in the modern World*, p. 127, C.P. Sherman, New Haven 1922.

2) The Little Horn changes Time and Law

“And think to change times and laws”

Here it deals with the times of God, the holy times of God, and the law of God. This can be seen because all other laws concerning time have been changed during the course of time, and laws of the state are being constantly amended to adapt them to the era and circumstances. Eusebius of Caesarea, a contemporary of the emperor Constantine the Great, declares in a sermon about *Psalms 92* who did change the Sabbath to Sunday: "... we did that ..."

We also make diligent effort to do that what is said in this Psalm before us, just on that very day whilst we thank the Lord in word and deeds and praise the name of the most High, while we early in the morning, at the rising of our light proclaim the mercy of God He had shed upon us, and testify to His truth in the night by a temperate and holy conduct of life; and **everything else that must be accomplished on the Sabbath, we have transferred to**

the day of the Lord, insofar that this day is more significant and is preferred insofar as it is the first day, and is more precious than the earthly Sabbath. For on this day God had said when He created the world: "*Let there be light: and there was light*"; and on this day the sun of righteousness is risen in our souls; therefore it is also handed down to us to gather together on this day, and we are being commissioned to fulfil what this Psalm declares". *Sabbath and Sunday in the Ancient Church*, p. 85, Willy Rordorf, Zurich 1972 ...

In one of the sermons of Augustine, found in Pseudo-Augustine 280, 2, we read about Sunday. It is of no consequence if this sermon was given by Augustine himself, or if it is the product of Pseudo-Augustine. If Augustine did preach it, then he is giving an explanation. If given by somebody else then it proves that the facts needed the authority of Augustine to wash something white, which otherwise could not be made white. In both cases it shows us how the Sabbath has been changed into Sunday, namely by the doctors of the church:

It appears from the sacred Scriptures that this day was a solemn one. It was the first day of the age, that is the existence of our world, in it the elements of the world were formed; on it the angels were created; on it Christ arose from the dead; on it the Holy Spirit descended from heaven upon the apostles as the manna had done in the wilderness, for these and other such circumstances the Lord's day is distinguished. **And therefore the holy doctors of the church decreed that all the glory of the Jewish Sabbath is transferred to it.** Let us, therefore keep the Lord's day as the ancients were commanded to do the Sabbath". *ST, Vol.3*, p. 151.

It is remarkable that Eusebius is the first of all writers, who reported this transfer of Sabbath duties to the first day of the week. For more than 300 years no writer of the Christian church did mention it. We have now to ask ourselves the question, where was this taking place?

Socrates tells us in his *Church-History*, Vol. 5, p. 22:

Concerning the assemblies for worship, there exist the same differences. While around the whole globe the churches celebrate the mysteries at the weekly return of Sabbath, refuse those (the Christians) in Alexandria and Rome to do the same, by following an old tradition. But the Egyptians, the

neighbours of the Alexandrians, and the people of Thebais, worship on the Sabbath day. ...

Here we see that already very early Rome and Alexandria differed from the rest of Christianity. And beginning from Rome, the Sunday made its move around the whole world.

Melanchton says in the *Augsbourg Confession* in the year of 1530, Article 28:

Thus she (the Roman church) testifies, that the Sabbath has been changed to Sunday in contradiction to the law of God, and there is nothing more emphasized and boasted about than the change of the Sabbath, and thus want to prove, how great the power is of the church when they disposed of the Ten Commandments and meddled with them.

The Branding of the Holy Spirit

All these signs force us to conclude, that the little horn and the papacy are one and the same thing. Through prophecy the Holy Spirit brands the papacy. We have verified through our study the following points:

Its location: the territory of the Western-Roman Empire

The time of its arising: after the fall of Rome

Its nature: its appearance differed from the other horns. It was religious. It had eyes like man. It was a prophet, a seer, a bishop

Its character: it speaks great, boastful words against the Prince and King of the church

Its lawlessness: it changed the holy time and the law of God

Its persecution of the saints: throughout the centuries Christians were murdered for their faith

The duration of its dominion: 1260 years, from 538 – 1798

Its final destiny: annihilation by fire at the second return of Christ

All these characteristics are applicable to the papacy, therefore the last prediction shall certainly not fail in its fulfilment.

3 Appendix

THE DEADLY WOUND, THE REPUBLIC AND THE IMAGE OF THE BEAST

Revelation 13

For once we are to look at the passages of *Revelation 13:1-10* and *Revelation 13:11-18* in a different way as usually is done. Yet there is another aspect that is being overlooked most of the time, and we are going to examine it a little closer.

This aspect is the republic destroyed the power of the papacy. The form of government that was chosen when the USA became a new state, was that of a republic. And on this earth the papacy hates nothing more than a republic. What is a republic, and how is the papacy going to gain the upper hand in the USA when the republic is going to be abrogated? At first some facts:

1. James White wrote the following:

Did the continuance of the papal dominion, as a horn of the beast, cease at the end of that period? From 538, 1260 years would extend to 1798. Did any thing transpire that year to justify the belief that the dominion of the papacy was taken away that year? It is a historical fact, that, on Feb. 10, 1798, Berthier, a French general, entered the city of Rome and took it. On the 15th of the same month the pope was taken prisoner and shut up in the Vatican. The papal government, which had continued from the time of Justinian, was abolished, **and a republican form of government given to Rome**. The pope was carried captive to France, where he died in 1799. *R&H*, Nov. 14, 1854.

2. Rudolph Sohm says this:

Since the close of the 17th century the concept that Christendom as the upholder of all law, right and order, sinks into oblivion. In the 18th century a transformation for toleration is taking place. In the 19th century this idea finds completion in the liberal democracy. *Kirchenrecht*, Vol. II, pg. 166.

3. Ellen White says:

By the decree enforcing the institution of the papacy in violation of the law of God, our nation will disconnect herself fully from righteousness. When Protestantism shall stretch her hand across the gulf to grasp the hand of the Roman power, when she shall reach over the abyss to clasp hands with spiritualism, when, under the influence of this threefold union, our country shall repudiate every principle of its Constitution as a Protestant and republican government, and shall make provision for the propagation of papal falsehoods and delusions, then we may know that the time has come for the marvellous working of Satan and that the end is near.

As the approach of the Roman armies was a sign to the disciples of the impending destruction of Jerusalem, so may this apostasy be a sign to us that the limit of God's forbearance is reached, that the measure of our nation's iniquity is full, and that the angel of mercy is about to take her flight, never to return. The people of God will then be plunged into those scenes of affliction and distress which prophets described as the time of Jacob's trouble. The cries of the faithful, persecuted ones ascend to heaven. And as the blood of Abel cried from the ground, there are voices also crying to God from martyr's graves, from the sepulchres of the sea, from mountain caverns, from convent vaults: "*How long, O Lord, holy and true, dost thou not judge and avenge our blood on them that dwell on the earth?*" (*Rev. 6:10*). The Lord is doing His word. All heaven is astir. The Judge of all the earth is soon to arise and vindicate His insulted authority. The mark of deliverance will be set upon the men who keep God's commandments, who revere His law, and who refuse the mark of the best or of his image. *5T*, p. 451-452.

Is it not interesting what we read in these three quotes?

1. Rome became a republic.
2. In that republic the supremacy of the papacy was taken away.
3. The moment when the USA abrogates the Protestant and republican form of government is the marking of the sign that the end is near.

4. The moment when this is going to happen is when Protestantism unites with the Roman power as well as with Spiritualism.

Ellen White specifies here three things:

1. The Constitution of the USA
2. The Protestant form of government
3. The Republican form of government

From the published statements given by our church in the last 130 years, it is made clear, that the terms mentioned above are symbolized by the two horns of the beast. What was taking place when the USA were formed? What makes the United States so special? We want to stay a little longer with these questions.

Many lawyers and historians studied the Constitution of the USA and commended it.

History has confirmed to the hilt this prima facie impression; the American Constitution has proven to be the most successful political instrument ever devised in all history. Charles Black, *The Yale Law Journal*, Dec. 1972, p. 201.

The reason is explained by an American historian as follows:

The Constitution establishes nothing that interferes with equality and individuality. It knows nothing of differences by descent, or opinions, of favored classes, or legalized religion, or the political power or property. It leaves the individual alongside of the individual. No nationality of character could take form, except on the principle of individuality, so that the mind might be free, and every faculty have the unlimited opportunity for its development and culture. ...

The rule of individuality was extended as never before ... Religion was become avowedly the attribute of man and not of a corporation. In the earliest states known to history, government and religion were one and

indivisible. Each state had its special deity, and of these protectors one after another might be overthrown in battle, never to rise again. The Peloponesian War grew out of strife about an oracle. Rome, as it adopted into citizenship those whom it vanquished, sometimes introduced, and with good logic for that day, the worship of their gods.

No one thought of vindicating liberty of religion for the conscience of the individual till a voice in Judea, breaking day for the greatest epoch in the life of humanity by establishing for all mankind a pure, spiritual, and universal religion, enjoined to render to Caesar only that which is Caesar's. The rule was upheld during the infancy of this gospel for all men. No sooner was the religion of freedom adopted by the chief of the Roman Empire, than it was shorn of its character of universality and enthralled by an unholy connection with the unholy state; and so it continued till the new nation, the most sincere believer in Christianity of any people of that age, the chief heir of the Reformation in its purest form – when it came to establish a government for the United States, refused to treat faith as a matter to be regulated by a corporate body, or having a headship in a monarch or a state.

Vindicating the right of individuality even in religion, and in religion above all, the new nation dared to set the example of accepting in its relation to God the principle first divinely ordained in Judea. It left the management of temporal things to the temporal power; but the American Constitution, in harmony with the people of the several states, withheld from the Federal Government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul; and not from indifference, but that the infinite spirit of eternal truth might move in its freedom and purity and power. George Bancroft, *History of the United States*, (1888), Vol. 6, p. 443, 444.

According to Bancroft the American Constitution is a principle laid down in an political document, a principle that first was established by God in Judea through Jesus Christ, the Lamb.

Thus the principles, anchored in the American Constitution, are the “horns of the Lamb” (*Rev. 13:11*).

What does the Constitution declare? What makes the American fundamental law so unique? Peter Schulz answers these questions in the book “*Ursprünge unserer Freiheit*” (*Origin of our freedom*):

1. For the first time a state was being formed by means of a social contract, to establish a new system of government.
2. By this for the first time the people – and the people only – were given sovereignty.
3. The sovereign “people” – nation, gives itself a constitution.
4. It was a written declaration.
5. For the first time a consequent distinction would be practiced between constitutional law and civil law.
6. This distinction had its formality in an for this purpose only elected assembly (convention) of representatives of the people that drafted the Constitution, and was afterwards ratified by the necessary number of states and went into effect on March 4, 1789.
7. Substantially, the Constitution was given a higher status compared to civil legislation.
8. An amendment to the Constitution was bound to a qualified majority. The Constitution was well secured against changes of very important fundamental resolutions (even in just one point).
9. For the first time attention was given to basic human rights, these became an explicit component on the federal and political agenda.
10. For the first time the legislative, the executive and the judicial branches of the government were put in separate departments, independent of one another.

11. Legislative power was established in two houses – the Senate and the House of Representatives, which make up the Congress. Both houses were elected.

12. The executive branch (the President) receives its legitimacy not from the legislative branch, but from the people; it is not liable to legislative power.

13. It has been laid down in the Constitution, that there would not be ultimate control over one another, between members of legislation and all other members of the other two branches.

14. A Supreme Court was also established as the interpreter of the Constitution.

15. Thus was made up the first Federal State on earth - based upon the double (or vice versa: separated) sovereignty of the people in individual states and the Federal State, with a strict demarcation of competence between each of three powers in the individual states and Federal State.

16. Two guiding principles permeated everything: State power is trust, and to prevent governmental tyranny – the checking and balancing of each of the powers against each other is necessary. Peter Schulz, *Die Ursprünge unserer Verfassung*, p. 67-68.

These principles are the foundation of a republic. What then have America and Europe to loose, so that the papacy is going to gain ground and will have full sway?

1. The people, the nation is sovereign; that means the enacting of bills is done by the representatives of the people.

2. There are two kinds of laws:

a. The constitutional law, anchored in the Constitution. The Constitution protects the citizen from every possible majority and even from the state itself.

b. The common law, it is daily on the agenda and debate and can be changed by daily ballots with a simple majority.

3. There is a balance of powers. The persons representing these powers or branches possess parliamentary privileges. These three branches, legislative power, executive power and judicial power hold each other in check and balance. None of them have ultimate control.

4. The Supreme Court is the interpreter of the Constitution and thus the protector of the constitutional rights of every citizen.

These four points give vitality to a republic. These four points are also the guarantee for religious freedom.

Let us consider this as a practical example. I am a Seventh-day Adventist. Because I keep the Sabbath I am of a religious minority. However, religious minorities are protected by the Constitution and by the US Supreme Court, if one refers to it. One day one of our members is brought to court. He keeps the Sabbath and therefore has been jailed.

The case comes before the judge. The defendant – the prisoner – appeals to the Constitution, but the judge replies: “Listen, your group can here no longer plea for its rights. There are plenty of other means, try it with politics. Go to the legislative branch, try to get interest from the Congress for your case, there are made laws for civil rights. There you will find protection“. What has happened here? Our rights which were anchored in the Constitution have expired. The separation of distinction of law between constitutional law and common law has been abrogated, and therefore the Constitution has become ineffective, it is no longer the fundamental law of the nation. The republic as such has become extinct.

And this is just what is happening in Europe these days. Let us again keep in mind: our constitutional state is based upon the principle, that there is a separation and a distinction between general laws and constitutional laws. In the latter are anchored the basic rights of the citizen. Separation of powers means, that the legislative, executive and judicial branch keep each other in check yet are perfectly independent of one another.

But when we look today to Brussels and investigate what the European Union there is designing and preparing, then we see that international laws are being created, that is laws without a national commitment, to which absolutely no one has access to or any influence. A totally uncontrollable system of power is developing there, liable to no one.

The EU is building an agency that - effective for all member states – may enact laws of any sort and liking. Indeed there is the very possibility, that on the European level a Sunday law may be drafted without any parliamentary approval. This suites the desires of Rome just fine. And this happens today right before our very eyes.

In connection to this it may be of interest to know how Hitler came to power. The Weimar – Republic was based upon the principle of power-separation. But a by-pass clause was built within the Constitution. It was for the government possible to bypass the Constitution by simply calling for a poll. Hitler made ample use of this method. So called “Emergency-ordinances” were issued, the parliament dispensed with and new elections announced.

Is it that easy? Apparently it was; but some obstacles had to be removed first. One was the representation of the people. Both Houses were dismissed. But just those two Houses, those two agencies of the state constituted the legislative power. Let us for a moment stay with this fundamental principle. As we have already seen, in the American system of government – represented in Bible prophecy by the symbol of the lamblike horns – is the sovereignty of the people the foremost point: it is the people who made the laws. But what exactly does this mean?

Let us take Property for an Example

As a citizen I surrender the right protecting my property myself against burglary and theft in the sense, that the state by means of police and judicial power now protects my estate. I give up one right and get one in return a million times stronger. The legislative force – the representative body recompenses me many fold for that what I have rendered. General legislation deals with this in detail. However, there are things which the state in case I want to give them up, cannot render back to me. One of the things which I cannot surrender to the government and would also never

gain back from the state, whether by one or a million times, is my religion. My personal belief, my living out of religion is a gift which God has given me. The state simply is not in the position to give me a personal religion, for the plain fact, that only God is able to bestow to the individual faith and belief. Such things as – religion, liberty of conscience, joy, happiness – the state is not able to render the individual. That is why these fundamental rights generally are not the topic of the representative body. These call for a special constitutional assembly or convention dealing with these rights.

Now what happened there in the European Union?

The EU is an international body where the people's representative, that is the two Houses of Delegates – have no right to partake in legislation. Even the European Parliament is excluded from this process. Bills are being created by the European Council.

This European Council consists of a number of European Committee members and the leaders of the member states. Resolutions once decided are irrevocable. This is the road to absolute dictatorship. This is what Rome always wanted. All parliaments will continue to exist, but concerning international resolutions, they will have no influence whatsoever.

How long is it going to be until our constitutional rights will be disregarded and the EU is going to give us her religion and ideology? After all, she can give only what she has. But the faith and religion concerning the living God she certainly will not be able to render, because she does not have it at all! We must realize that the EU can give unto us only what we yield up at first.

He only, who truly believes in the fundamentals of the republic and Protestantism will be able to stand! Only he who believes, that religion is a fundamental right that must be protected, even against the greatest majority, yes even against the state itself, only such a one shall be able to endure at the end!

Do you believe in the republic?

4 Appendix

THE WOMAN AND THE BEAST, REVELATION 17

The Woman

- The woman is a city (*vs.18*)
- Her name is Babylon (*vs. 5*)
- She sits on many waters (*vs. 1*)
- The name of many waters is Euphrates (*Rev. 16:12*)
- The woman has dominion over the kings of the earth (*vs. 18*)
- She shows no mercy to the saints, for she is drunken with their blood (*vs. 6*).

It is a persecuting power. The whore seems to be of a different character than the kings of the earth. She is a woman, and the kings of earth commit whoredom with her. Today we would express this with other words. It is a church that united with the state. Her influence upon the world and its inhabitants is indeed not very edifying.

She holds a golden cup in her hand, filled with the abominations of her filthiness and whoredom (*vs. 4*).

She puts the cup to the lips of the world and its people to make them drunk (*vs.2*).

She is already very old. She is the “*mother*” of harlots and an abomination upon the earth (*vs 5*).

She is so to speak the mother of culture which is not to be confused with education. She is already for a long time warring against God, against His Son and His sanctuary. Now she prepares herself again to continue this warfare.

We read furthermore, that this woman, this church, is arrayed with purple, gold, jewels and pearls (*vs. 4*).

She is the mystery of iniquity (*2. Thess. 2:1-12; vs 5*).

All these characteristics fit the papacy. The one who enters a Catholic Church building, who investigates the history of the church of the Middle Ages, and also in the Second World War, will come to the conclusion, that no other symbol could be more accurate. She is not the pure woman of *Revelation 12*, who overcomes evil and keeps the commandments of God had has the faith of Jesus. This one is a harlot, fornicating with the kings of the earth, the other one is a pure woman, getting married with the Lamb (*Rev. 19:6-10*).

The two women are also arrayed in different garments. The one is clothed with righteousness, the other with the gown of a whore, purple and scarlet. The one preaches righteousness under danger and peril, the other puts everything into action to spread her abominations and whoredom into all the world.

The Beast and the Woman

“So he carried me away in the spirit into the wilderness; and I saw a woman sit upon a scarlet colored beast, full of names of blasphemy, having seven heads and ten horns ... And the angel said unto me, Wherefore didst thou marvel? I will tell thee the mystery of the woman, and of the beast that carrieth her, which had the seven heads and ten horns” (*Rev. 17:3, 7*).

Here we see that the woman sitting on many waters, is further symbolized by a beast having seven heads and ten horns. Going back to *Rev. 13:1-18*, then we see a beast with horns like a lamb, that commands all who dwell on this earth to worship the first beast and that in a most particular way. They are to make an image to the beast. The image receives a spirit and becomes alive. The question we are to raise is: “In which sense is the living image for the beast?” This mystery is revealed to us in verse 8: *“The beast that thou sawest, was, and is not; and shall ascend out of the bottomless pit, and go into perdition: and they that dwell on earth shall wonder, whose names were not written in the book of life from the foundation of the world, when they behold the beast that was, and is not, and yet is”* *Rev. 17:8*.

We find here some peculiar Terms:

- 1) A beast, that was, and is not; and ascends out of the bottomless pit.

- 2) When they shall see the beast that it was, and is not, and is to come.

1. There is then a phase, when the beast “was”,

2. and a phase, when it “is not”.

3. In a third phase it ascends out of the bottomless pit. The phase when it is not, is a time period in which it “yet is”, because it comes all of a sudden up from the bottomless pit. The beast which we saw of course is the beast of *Revelation 13:1-10*: the papacy.

Now arises the question: **When does prophecy represent a power by the symbol of a beast?**

This happens at the moment, when this power becomes sovereign and comes in contact with God’s people. So it was with Babylon, Medo-Persia, Greece, pagan and papal Rome. Papal Rome became sovereign in 538 A.D. Her law was canonical law. This was not a law merely within the church, but applicable to every citizen. It was of no consequence if one was a believer or not. Within the boundary of papal legislation one was automatically under the power of papal jurisdiction. One may compare this with a tourist in a foreign country. When a German tourist visits Switzerland, then he comes under Swiss legislation. When he violates those laws, then the Swiss police on the ground of Swiss laws will take actions against him.

Canon law was abolished in 1798 when Rome was announced a republic. In that moment the beast ceased to be the beast though it still existed. It shall “ascend out of the bottomless pit”. Suddenly the papacy was no more, that is, the papacy whose sovereignty has been taken away, is the same as the beast with the deadly wound. The wound is going to heal. The beast will come back out of the bottomless pit. Even the words used in the two prophecies are almost identical: *“And I saw one of his heads as it were wounded to death; and his deadly wound was healed: and all the world wondered after the beast”* *Rev. 13:3*.

“...and they that dwell on the earth shall wonder, ... when they behold the beast that was, and is not, and yet is” *Rev. 17:9-11*.

Two prophecies, amazingly similar about the same fact. “*And here is the mind which hath wisdom. The seven heads are seven mountains, on which the woman sitteth. And there are seven kings: five are fallen, and one is, and the other is not yet come; and when he cometh, he must continue a short space. And the beast that was, and is not, even he is the eighth, and is of the seven, and goeth into perdition*” Rev. 17:9-11.

The Seven Heads are the Seven Mountains and the Seven Kings:

To understand this, you turn to Rev. 13:2. In this text we find five beasts:

1. The composite beast
2. The dragon
3. The leopard
4. The bear
5. The lion

When you turn to *Daniel 7*, you see the powers:

1. Babylon
2. Medo-Persia
3. Greece
4. Pagan Rome
5. Papal Rome
6. Political atheism (*Rev. 11:7*)
7. The living image of the Beast

“*Five are fallen*”, that is, Babylon, Medo-Persia, Greece, and the Roman Empire are fallen. Also the papacy, the fifth head is fallen. But how did the papacy fall?

Rudolph Sohm:

Thus in the realm of law and order of today is **no place for the ideology of Catholicism. The historical development pushed it from its position of jurisdiction. From the point of law there is no visible Church of Christ and therefore no binding religious law in connection with ecclesiastic authority.**

Thus for today’s secular system the **supremacy of the Catholic Church with her popes and bishops as executive power is extinct.** She became a power of mere religious nature, without any effect upon the secular system. **At the same time canon law ceased being the binding law.**

The only effective law is secular law (the law of the State).

By law the power-proportion of church and state are regulated by the clause, that alone the state is sovereign, therefore any church is subordinate to the legislative power of the state. Certainly, the religious authority of the Catholic Church with her bishops, which she exercises over her faithful Catholics within the church, continues. But she ceased to be the authority in the sense of representing the legal force. And of course, the state in its legislations is obligated to carefully regard the religious beliefs of its Catholic citizens. However the fact remains, the state is to be the sole source and authority of the binding, secular law. *Kirchenrecht*, Vol. II, p. 124.

Let us ponder the applied terms:

Catholic ideology was pushed from its position of jurisdiction.

It became extinct.

From the point of law there is no longer any legislating religious authority.

The Catholic Church fell from representing the “legal force”.

Canon law ceased being the applied law.

This is how the papacy fell in 1798.

“The one is”

The power remaining, was the power which caused the deadly wound to the papacy. It was the beast from the bottomless pit as we find it in *Rev. 11:7*. It was political atheism or also called communism. Yet it fell as well, and that in 1989!

“The other is not yet come”

The one yet to come is the living image of the beast, the seventh head. A new persecuting power, that will fulfil *Revelation 13:11-18* to the letter. It will continue a “*short space*”.

“And the beast that was, and is not, even he is the eighth, and is of the seven and goeth into perdition” Rev. 17:11.

The papacy, that “*was* “ during the 1260 days until 1798, is then the eighth, that is, the woman on the beast as well.

When we count the heads pictured here, then we see seven heads on the beast and the head of the woman. This is the eighth head – the Catholic Church. Thus the living image of the beast is made for “*the beast*”, that is, it is made unto the beast. Even though the papacy has no sovereign authority, it still exists. But now it is no more a beast, but a woman. It is a power robbed of her sovereignty yet is seriously concerned to gain it back. This woman is of the seven and goes into perdition. Ellen White said: “Yet under one head – the papal power – the people will unite to oppose God in the person of His witnesses” *7T*, p. 182. The only question we have yet to answer is “How will this come to pass?”

The Ten Horns

“And the ten horns which thou sawest are ten kings, which have received no kingdoms as yet; but receive power as kings one hour with the beast. These have one mind, and shall give their power and strength unto the beast. These shall make war with the Lamb, ... And the ten horns which thou sawest upon the beast, these shall hate the whore” Rev. 17:12-16.

Let us go back once more. The beast presented to us is a beast with seven heads. The seven heads are a symbol of the seven powers hostile to God, beginning with Babylon down to the last one. In *Revelation 12* we meet the beast in its fourth phase – pagan Rome. In *Revelation 13 and 17* we see the fifth and seventh phase. The ten horns of *Revelation 12* are of no specific significance. But the ten horns of *Revelation 17* just cannot be the ten European nations. There are a number of reasons which speak against such an idea:

They have not yet received their kingdom.

They receive their kingly power “*one hour*”, that is, suddenly.

They are of one mind and give their strength unto the beast.

Finally they realize they have been deceived, and turn against the whore, against Babylon.

In other words – now we think of him who gave us the story, that is the angel of the sixth plague: The Euphrates that once made the city of Babylon rich and powerful, turns now against it, causes her fall. Who is giving the power to the beast?

Conclusion:

This can not possibly refer to the European nations, for they received their kingdom more than one thousand years ago. “*Not received their kingdom as yet*”. This point is important. It deals here with another church, and that is Protestantism. Is the day coming when Protestantism will be in power? Yes, *Revelation 13:11-18* speaks very clearly. How will this be? Protestantism assures her needed power through ecumenism. The whole of Protestantism is preparing for that moment.

“These have one mind”. There will be a universal bond of union, one great harmony, a confederacy of Satan’s forces. “*And shall give their power and strength unto the beast*”. Thus is manifested the same arbitrary, oppressive power against religious liberty, freedom to worship God according to the dictates of conscience, as was manifested by the papacy, when in the past it persecuted those who dared to refuse to conform to the religious rites and ceremonies of Romanism.

In the warfare waged in the last days, all corrupt powers that apostatized from allegiance to the law of God, will unite against God’s people. In this warfare the Sabbath of the fourth commandment will be the great point of issue, for in the Sabbath commandment the great Lawgiver identifies Himself as the Creator of the heavens and the earth.

Christ glorified in the last Crisis

As Christ was glorified in the day of Pentecost, so will He again be glorified in the closing conflict of the great controversy.

Is it the intention of ecumenism to give the power to the papacy? Yes, as soon as they have the power in their hands, they will hand it over to the pope. Because this is the solution to the problems of the many-headed beast (ten horns), Protestantism. The representation of interests must be taken up by one head, and this will be the pope. Will they finally discover that they have been deceived? Yes, for sure. The false prophet shall be deceived himself.

The same Protestantism that brought the multitudes to Babylon, will also draw away the multitudes from Catholicism and take charge that the whore be destroyed. The deceiver, the false prophet, will realize at last, that he himself had been deceived.

In *Revelation 18* it is clearly detailed how the business people of the world will lament when their ecumenical paradise is going to collapse like a house of play cards.

In *Revelation 19:1-5* the heavenly agencies have the last word. They sing about the fall of great Babylon to God in a song of praise.

The War against the Lamb

The last aspect in *Revelation 17* is the war and the warring parties. The angel of the sixth plague is the angel of the war of the great day of God Almighty (Rev. 16:12-16). In *Revelation 17:14*, it says: “*These shall make war with the Lamb, and the Lamb shall overcome them: for he is Lord of lords, and King of kings: and they that are with him are called, and chosen, and faithful*”.

The gathering of powers by the beast, the dragon and the false prophet, as we read it in *Rev. 16:13,14*, or by the papacy and Protestantism as it says in *Revelation 17*, has just one objective, war against God! Is everyone who engages in this warfare aware of that? No, surely not! The dragon, the false

prophet and the beast, offer as far as speaking the truth – certainly no spotless garments.

Revelation 17 rather speaks of abominations, filthiness and whoredom. But why should they expose their intention? For it will finally be seen, that the movements which take place today all over the world, shall reveal only one objective: to resist the God of heaven! But God’s people have only one weapon: THE WORD OF GOD!

While *Revelation 17* reveals the one side and the strategy of it, in *Revelation 19:6-21* the other side is taken under the magnifier.

In *Revelation 17* everything comes into motion because of whoredom. In *Revelation 19* the hosts are being led by a bride. The one is of the law, the other against the law. Who is this who enters into a bond of matrimony? Christ and His church. From verse 11 on we are given a description of the warfare. The True and Faithful leads the war in righteousness. (How different are these weapons from the weapons of the enemy of lies and terror!). The hosts of heaven (*19:14*), are the called and chosen and faithful ones [or saints]

(*17:14*). Though the weapons differ from the ones of the enemy, this does not mean at all, that meekness and the word do not conquer, just the opposite. God’s truth and God’s character will be the victors.