
Heresy By Association: The Canonical Prohibition of Freemasonry in History and the Current Law

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HERESY BY ASSOCIATION:
The Canonical Prohibition of Freemasonry in History and in the Current Law

A DISSERTATION

Submitted to the Faculty of the
School of Canon Law
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By
Edward F. Condon
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ABSTRACT

Despite the remarkable continuity, over the centuries, of the Catholic Church's condemnation of Freemasonry and the clarity of her rationale for doing so, the current canonical discipline of Catholic-Masonic issues is the subject of considerable confusion.

The canonical prohibition of Catholic membership of a Masonic Lodge, or society, was expressly articulated in canon 2335 of the 1917 Code of Canon Law, which attached a penalty of excommunication, *latae sententiae*. Further canonical effects explicitly linked to Masonry were contained in six additional canons spread throughout the Code. The 1983 Code of Canon Law contains no explicit mention of Freemasonry. Canon 1374 provides for indeterminate penalties for those who joins societies which "plot against the Church", but there is no consensus of what the canonical definition of plotting (*machinationem*) means, nor which societies, if any, might be intended by the canon.

This dissertation seeks, through historical analysis of the origins of Freemasonry itself, and the Church's teaching against it, to correctly place Freemasonry, specifically membership of a Masonic society by a Catholic, within the penal law of the 1983 Code. Chapter I traces the origins of Freemasonry and the Church's opposition to it, through to the codification of the 1917 Code of Canon Law. Chapter II is a parenthetical consideration of the particular phenomena of American Freemasonry, which is often held out to be somehow less noxious than the often explicitly anti-clerical European variety, and demonstrates its peculiar, but no less damnable, nature.

Chapter III is an examination of the 1917 Code of Canon Law. It considers the canons on associations generally, and various condemned societies in particular, and extrapolates the significance of the canonical context of the Code's treatment of Masonry as, variously, a crime against the faith and against authority. The chapter also offers a treatment of some basic principles of penal law, including imputability and the nature of crime and punishment in canon law. Chapter IV traces the canonical prohibition of Masonic membership by a Catholic through the process of reform and revision which resulted in the 1983 Code of Canon Law. It then examines the various scholarly commentaries on the subject, as well as how Masonry has been canonically treated under the *ius vigens*.

Chapter V advances the argument that a Catholic joining the Freemasons can, in fact, commit two delicts by the same action: the delict of joining a prohibited society (c. 1374); and the delict of heresy (c. 1364). Masonic texts and rites of initiation are examined as possibly containing heretical material which a Mason explicitly embraces. The chapter finishes by establishing the existence, necessity, and justice of an enduring universal canonical prohibition of Catholic membership of the Freemasons.

This dissertation by Edward Condon fulfills the dissertation requirements for the Doctorate Degree in Canon Law approved by Kurt Martens, J.C.D., as Director, and Robert J. Kaslyn, S.J., J.C.D., and John P. Beal, J.C.D., as Readers.

Kurt Martens, J.C.D., Director

Robert J. Kaslyn, S.J., J.C.D.,
Reader

John P. Beal, J.C.D., Reader

This work is completed with my love and gratitude to Rachel, who worked harder and gave more.

It is respectfully dedicated to the Rev. Anthony Sacré of the Archdiocese of Westminster, a true father to his parish and brother to his community, and a priest like Melchizedek of old.

And to Mr. Martin Ince, formerly of the City of London and Greater Manchester Police Forces, who inspired this work, and who told the bastards where to get off.

“You can tell a lunatic by the liberties he takes with common sense, by his flashes of inspiration, and by the fact that, sooner or later, he brings up the Templars.”

- Umberto Eco

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Introduction

Freemasonry has been opposed by the Church for centuries and it has been the subject of the explicit condemnations of no fewer than eight popes. The canonical prohibition on membership, by a Catholic, of a Masonic Lodge or society, was expressly articulated in canon 2335 of the 1917 Code of Canon Law, which attached a penalty of excommunication, *latae sententiae*. Further canonical effects explicitly linked to Masonry were contained in six additional canons spread throughout the Code. The antipathy of the Church and the Lodge was universally known, if not perfectly understood.

During the revision process, following Vatican Council II, the various *schema* for the new book of penal law initially omitted any canon on prohibited societies and made no reference to the Masons at all. During this time it began to be suggested that, in line with the conciliar imperative for subsidiarity, it was no longer appropriate to have a universal condemnation and prohibition of a society, even one as historically antagonistic as the Masons. It became common consensus that Masonry was not the same everywhere and that it should be left to the discretion of the local authority to determine if a group, including the Masons, in a particular area really merited censure. Following a confusing exchange of questions and answers

between various bishops' conferences and the SCDF, many dioceses began to ignore the clear provisions of the 1917 Code still in force, and determine for themselves if Catholics might join the local Lodge.

The 1983 Code of Canon Law contains no explicit mention of the Freemasons. Canon 1374 provides for indeterminate penalties for those who joined societies which "plotted against the Church", but there is no consensus of what the canonical definition of plotting (*machinationem*) means, nor which societies, if any, might be intended by the canon.

On the eve of the new Code coming into force, the Congregation for the Doctrine of the Faith issued a declaration emphatically stating that the Church's stance on Masonry had not changed, that membership of the Masons, by a Catholic, remained not only gravely sinful but canonically proscribed as well. The absence, in the text of the canons, of an explicit mention of Masonry was dismissed as insignificant as Masonry was clearly intended to fall under "other categories". The impact and meaning of this declaration was folded into the wider, ongoing, debate about the meaning of canon 1374 and the possibility of a universal canonical condemnation.

This work will seek to trace the origins of the Church's opposition to Freemasonry, and of Freemasonry itself, in an effort to arrive at a clear understanding of what it is in Masonry that is so worthy of condemnation. A parallel examination will be made of the development of Masonry throughout the centuries, alongside the development of the Church's canonical treatment

of Catholic membership of a Masonic Lodge in an effort to explain how and why the two changed, or did not change, over time. Given the enduring questions concerning the differences between Masonry in different historical and social contexts, a parenthetical study will be conducted of the history of Masonry in the United States, where it is often considered the most socially acceptable and most benign.

A key theme of the Church's condemnations of Freemasonry, and of the canonical debate concerning the prohibition of Catholic membership of a Masonic Lodge, is the philosophy of Freemasonry which has been described variously as deistic, relativistic, and religiously indifferent. This work will examine Masonic philosophy, and its expression in the ritual life of the Lodge, and how this has been described by the Church. It will endeavor to clarify if Freemasonry has been historically condemned for what it *is*, or merely what it *does* or might not do. This work will include an examination of Masonic philosophy and ritual in an effort to determine if Masonry has been condemned as a society against the Church *sui generis*, or if it is actually what the Church has traditionally called an "heretical sect" and its philosophy, and adherence to it by a Catholic, actually constitutes the canonical delict of heresy.

The work will conclude with an evaluation of Freemasonry and the canons of the 1983 Code of Canon law which might best be applied to the situation of a Catholic Freemason. It will seek to answer the fundamental

question: Is Freemasonry merely a society which has been more or less antagonistic to the Church in different times and places, or is it always and everywhere a heresy against the Catholic faith?

Chapter I

Freemasonry & the Church: Historical Origins and Context Before the 1917 Code of Canon Law

Introduction

The Church has been explicit in its condemnation of Freemasonry, and similar organizations, for very nearly as long as they have been in existence. There are few organizations which lay claim to a history as ancient, esoteric, and lurid as the Masons. Yet the secret society, or network of societies which make up Freemasonry, does have a documentable beginning and a verifiable history. If we are to engage properly with the Church's canonical treatment of Freemasonry, it is important that we have a proper understanding of what Freemasonry is, where it comes from and what, besides self-proclaimed Masonic Lodges, the Church means by "similar associations."

It is therefore necessary to offer at least some account of the real origin and development of Masonry, as well as the more dubious claims made about the Freemasons, both by themselves and by others. This is in order for us to place both them, and the Church's response to them, within the proper context. It is especially important to consider, discreetly, Freemasonry's philosophical content and role in European and American history. As shall be

demonstrated, there is a crucial distinction to be drawn between what Freemasonry *is* and what it *does*.

The Church's condemnation of Freemasonry does have much to do with Masonry's role in the changing of society, especially Western European society, during the eighteenth, nineteenth and even twentieth centuries. That role was, and often remains, misunderstood by many, believing it to be one of active sedition, plotting, and coordinated revolution. While, at specific times and in specific places, this has been the case, the Church has, in fact, maintained a much more rounded understanding of the more often passive nature of Freemasonry, not acting as direct agents of revolution but conceiving and promoting the system of thought which would inform and inspire those who did actively take part in revolution against both the Church and the State.

This chapter will attempt to explore the historical origins and evolution of both Freemasonry and the Church's response to it, leading up to the 1917 Code of Canon Law, and also to offer some examination of Freemasonry as a revolutionary inspiration or force in early modern Europe. The different cultural contexts of Masonry, especially on the European continent, will be set against the emerging canonical discipline of total prohibition, which was universal.

Medieval Masters

The life of a medieval peasant was not what anyone would call glamorous. The short, hard, brutish life span of the average serf, tied to the land he farmed for another, was unlikely to take him further than the nearest market town. The truly adventurous and lucky might make a pilgrimage to the nearest cathedral or monastery, a building which would have seemed, in comparison to the flat, wooden world of his ken, as awe inspiring and other worldly as the God to whom he came to pray. These buildings, which were being constructed all over Europe, placed a city on the map; making it a center not just for religious pilgrims but for economic and political affairs as well. They were constructed by large, often generational, workforces of skilled and unskilled workers. While the fetching, lifting, carrying, and other grunt work, could be handled by local labor, the mysterious business of getting these stones to stack towards heaven and assume intricate and awesome shapes was the business of the master masons who would be summoned, or arrive unbidden, to the project by the lord, bishop, or abbot.

These men were of two kinds: the rough masons, who carved the hard stone blocks which formed the structure of the building; and the free-stone masons, who worked the finer rock into the artistic flourishes, terrible gargoyles, saintly statues, and ornate facades which gave character to the

building.¹ These men lived lives of comparable fame and adventure next to the anonymous toil of the honest peasant. They would travel from job to job, sometimes across all of Europe, with patrons eagerly competing for their services. While several generations of a family might work on a cathedral as unskilled laborers, the masons might come and stay for a few years, or even less, and work on several projects in a lifetime. Building a cathedral or castle was already a big enough project: in scope; in time; in money and resources; that the possibility of your best (and most essential) personnel downing tools and leaving for a better offer at a moment's notice was a real and thorny one. While contracts of employment attempted to ensure the work would get done, the most skilled workers often either refused to sign, or if the competing offer was good enough, simply ignored them. While simple forced labor was an effective, if inelegant, option, this did not make for a happy workforce.

Eventually, it was decided that the best way to control too much free enterprise, much as it remains the case today, was to introduce government regulation. Royal charters were granted to trade guilds, regulating standards, practices, and fees, and recognizing the leaders of the trade. The guild would be awarded the contract for a project, they would ensure quality and continuity of work and they would only employ members of the guild to

¹ Jean Gimpel, *The Cathedral Builders* (London: Pimlico, 1993) 68-69. Original citation by Jasper Ridley, *The Freemasons* (New York: Arcade, 2001) 3.

work on the site. Becoming a member of the guild meant conforming to a government-approved set of regulations ensuring the guild members' obedience to God, the King and his master in trade.

These conditions included, as was the happy practice of the time, forswearing all heresy and affirming loyalty to the Catholic Church, but also included affirming the sovereignty and laws of the King. After these came the duties of a mason within the trade, setting rules on apprenticeships, the guarding of trade secrets, and the preservation of harmony between brother masons (essential to keep a project running smoothly). There were also regulations on good moral conduct, including the visitation of pubs and brothels and the playing of cards. While this might seem an extremely proscriptive set of terms of employment, in reality this amounted to the guild simply conforming to the laws of the land on general moral behavior.² The oldest guild of which we know was in Scotland, with the Masons' Company of Glasgow being given Royal charter in 1057, while the English guilds seem to have been established at least by 1220.³

As a man progressed through his apprenticeship toward becoming a craftsman in his own right and, hopefully, one day a master mason, gradually more and more of the science of architecture was imparted to him and he

² Ridley, 4-7.

³ Ibid.

grew qualified to perform more difficult jobs. As he travelled from job to job, he needed some means of authoritatively proving his qualifications to the master mason in charge of a project. The means by which this was done was through special handshakes, “grips”, and passwords which were given as part of a man's training. These would gain him access to the masons' lodge, the building on the project site where masons ate together, stored their tools and planned the progress of the job. Which grips and words a newly arrived mason used to gain admittance would tell the master in charge what work he was qualified to carry out.

While originally conceived as a means of controlling the work habits and prices of masons, the guilds quickly began to work as trade unions, allowing masons to meet and plan corporate action. Instead of guaranteeing steady work at a fixed price, the guilds allowed masons to unite and demand more money for less work. The system of passwords, intended to control the quality of work, ensured the confidentiality of their meetings.

Going Underground: From Trade Guild to Secret Society

The trade guilds of the cathedral builders were an eminently practical development of the circumstances of their work. Such secrets as they had were to protect the integrity of their trade and such oaths as they made were imposed on the guilds as part of their civil recognition. It is difficult to

imagine what a medieval stone worker would have made of the elaborate pantomimes, performed in huge, mock-oriental buildings, which characterize modern Freemasonry. He would certainly wonder what had happened in the intervening years. The transition of Masonry between the mid sixteenth and early eighteenth centuries, from what was essentially a trade union to a hyper-ritualized Enlightenment social club, was dramatic. What, indeed, did happen?

This period of time was one of great upheaval in Europe, with both the political and religious map constantly redrawn through war. The most bloody of these conflicts, whether internal civil war or between nations, centered on religion. It is outside the scope of this work too closely to examine the period of European history we have come to call the Reformation and counter-Reformation, nor is it necessary to over labor the obvious damage done to the civil and moral fabric of Europe by the wide dissemination and, in places, nationalizing of heresy. We might also note that some of the most concerted religious intolerance, at least in the three kingdoms of what would become the United Kingdom, was Protestant against Protestant. Indeed, the nonconformists' desire to escape the punitive action of the established Church of England crewed the famous *Mayflower* and led to the settling of New England. What may be simply observed is that by the middle of the seventeenth century there was a growing number of people who were fed up

with religious conflict and eager to see some kind of peaceful coexistence between Catholics and Protestants, though this was not an opinion to be voiced too publicly.

An expression of this sentiment was found in the Rosicrucian group, which first surfaced in 1614. This esoteric movement purported to be based on the works of the (probably fictitious) fourteenth century philosopher Christopher Rozenkrantz which were, allegedly, discovered by a disciple of his in a story only marginally more credible than Joseph Smith's account of the finding the Book of Mormon.⁴ The works of the Rosicrucians contain a heady blend of gnosticism, alchemy, and deism. They gained a limited level of intellectual vogue by adding the pretended wisdom and symbols of the East and ancient Egypt to a utopian call for the worship of God by all men simply as creator, and divorced from the sectarian and doctrinal conflicts of the time. This, in time, worked its way into the Masonic Lodges which were undergoing a dramatic change.⁵

The working craft of masonry was a logical, if unintended, casualty of the religious turmoil which engulfed Europe. Cathedral building was an

⁴ See especially Arthur Waite, *The Real History of the Rosicrucians* (London: George Redway, 1887) 216. Also see Ridley, 15-17. For the story of the "discovery" of the Book of Mormon, see: Joseph Smith, *The Book of Mormon* (Salt Lake City: The Church of Jesus Christ of Latter-Day Saints, 1981).

⁵ Henry Haywood and James Craig, *A History of Freemasonry* (New York: John Day, 1927) 212-214.

expensive enterprise which would usually outlast the lifetime of the original patron. A project which would take decades demanded a certain political stability and a steady stream of funding and workers. These were not common circumstances in reformation Europe. In addition, the Protestant movement was not overly enamored with grand religious architecture; far from building new cathedrals and churches, those that already existed were often subjected to the stripping of the altars. While the rough masons, those who worked the solid, structural stone, would always find some work, the free stone masons found the market for gargoyles and statues of saints much diminished. Increasingly the guilds came to rely more and more on “accepted members”, those who joined the guild through social or family connections without practicing the trade, to swell the rolls and pay their dues. Many of whom were fascinated by the secret signs and passwords which decorated lodge life, and happy to gain access to a closed social network.⁶

At the same time, the increasing availability of the Bible in the vernacular, perhaps reaching its zenith with the King James Bible, was sparking a fashion for biblical references and symbolism. To the Masons, nothing was more natural than to appropriate the story of the building of

⁶ This practice was not uncommon among the other trades and continues today among the various guilds of the City of London. For a brief treatment of the practice, see Ridley, 18.

Solomon's temple and begin to elaborate upon it.⁷ Meanwhile, those new accepted members brought their own esoteric interests into the Lodges and soon you had an interesting blend of the biblical positivism of the Protestant Reformation and the mystical pretensions of the Rosicrucians combining to support a myth of the sacred importance of the biblical dimensions of the Temple.⁸ The increasingly esoteric tone of Masonry fascinated those outside, driving up the numbers wanting to join, and inspiring those within to justify their interest.⁹

Grand Ambitions

The transition of Masonry, from a union of skilled itinerant tradesmen to an esoteric philosophical society of British gentlemen, came to completion with the formation of the first Grand Lodge of England in 1717 in the relatively prosaic venue of the Goose and Gridiron pub in London.¹⁰ To be

⁷ Haywood and Craig, 24.

⁸ Margaret Jacob, *Living the Enlightenment: Freemasonry and Politics in Eighteenth Century Europe* (Oxford: Oxford University Press, 1991) 36.

⁹ Ridley, 32-33.

¹⁰ While the name of the pub, in the St Paul's district of London, is variously cited as either the Goose & Gridiron or the Apple Tree, this meeting of the four largest surviving masonic lodges of Britain, at which they combined to form the first Grand Lodge, is a remarkably well documented event for the birth of a secret society. See especially: William Whalen, *Christianity and American Freemasonry*, 3rd Edition (San Francisco: Ignatius Press, 1998) 34; Henry L. Stillson, ed., *History of the Ancient and Honourable Fraternity of Free and Accepted Masons* (Boston: The Fraternity Publishing Company, 1895) xxxi.

sure, the constitutive four lodges could claim some historical connection with the operative masonic guilds from whom they derived their symbols and vocabulary, but the 1717 meeting marked the formal end of any connection with the practice of the craft and the official rebirth of Freemasonry as a fraternal order bound by philosophy rather than trade. Freemasonry grew rapidly in England, and its American colonies, and spread to Europe as well, arriving in France with the establishment of the first lodge in Dunkirk in 1721.¹¹

Undoubtedly, part of the appeal of Freemasonry was its esoteric rites, oaths of secrecy and whispered claims to gnostic knowledge. These, which had had various iterations among the different lodges of different guilds, were now synthesized into a grand pseudo-history.¹² The ceremonies and passwords of the guilds were hyper-ritualized into quasi-sacramental rites filled with the esoteric symbolism which the guilds had gradually absorbed, together with the burgeoning philosophies of the Enlightenment which were gaining currency among the intellectual classes of Protestant Europe. Indeed there was a very real, very problematic, philosophical core to the tenets of the new Masonry, which was, and is still, cultivated in its members through this series of rites. The tone of these surely intends to lend the gravest

¹¹ Whalen, 173.

¹² Haywood and Craig, 20-37.

seriousness to what is being imparted and affirmed. But even the most earnest or credulous seeker of “enlightenment” in the eighteenth century would be bound to feel slightly absurd partaking in elaborate rituals which had been invented in the back room of a central London ale house. Thus Freemasonry's previously informal references to the building of Solomon's temple and the pyramids of Egypt were now asserted as historical facts.¹³ Its rites of initiation involve elaborate pantomimes of the life and murder of Hiram, the apocryphal architect of Solomon's Temple, and, as Freemasonry spread to new countries, each created for itself a new layer of historical myth to lend authority to the rituals and beliefs of the Masonic order.¹⁴

The initial criteria for membership of this new Freemasonry, as expounded in Dr. Anderson's *Book of Constitutions* of 1723, provided that Masons must believe in God and specifically barred atheists. The formulation

¹³ The official (and entirely ahistorical) mythology of the new order of Free and Accepted Masons was written by Dr. James Anderson; a Scots Presbyterian clergyman instrumental in the formation of the Grand Lodge. See *Whalen*, 37 as well as: Jacob, 34. Albert Pike, *Morals and Dogma of the Ancient and Accepted Scottish Rite of Freemasonry* (Charleston: Supreme Council of the Thirty-Third Degree for the Southern Jurisdiction of the United States, 1881) 200.

¹⁴ While English and Scottish Masonry aligned itself with the Rosicrucians and renaissance gnostics and alchemists, the French linked the Lodge to Cromwell's regicidal revolution in England. Always and everywhere the Masons seek to claim some link with the medieval Order of Knights Templar, though there is absolutely no historical evidence to support this, as is frankly admitted in Masonic sources themselves. See especially: Jacob, 24; Stillson, 140; Pike, 773.

of this belief in God, or what the Masons identify as the Grand Architect of the Universe, was limited to:

That Religion in which all Men agree, leaving their particular opinions to themselves, that is, to be good Men and true, or Men of Honour and Honesty, by whatsoever Denominations or Persuasions they may be distinguished.¹⁵

What was meant by “that Religion in which all Men agree” is difficult to define exactly. What is for sure is that it opened the door to membership at least to all monotheists. Masonry soon became fashionable among the intellectual and social elite of British society, and the Lodge became simultaneously more liberal philosophically and conservative socially, with deistic Enlightenment thought becoming ever more central to an increasingly socially stratified and exclusive group of lodges. The very merchant-middle class Masons who had co-opted the society from the operative stone carvers now found themselves dispossessed by the nobility and gentry who had no interest in treating their Masonic brethren as social equals.¹⁶

This in turn led to the first schism in Masonry in 1756, led by Lawrence Dermott, an Irish wine merchant living in London.¹⁷ Dermott

¹⁵ James Anderson, *Constitutions of the Freemasons* (London: 1723), quoted by Whalen, 37.

¹⁶ Ridley, 36.

¹⁷ Stillson, 556.

summarized the discontent in a paper impenetrably titled *Ahiman Rezon* in which he mocked the self-regarding gentry as a group of irreligious libertines, while glorifying the radical fraternity of “true masonry.” Dermott ridiculed Anderson's pseudo-history¹⁸ and formed a rival grand lodge which, in a typical example of inverted Masonic nomenclature, he styled the “Ancient” Grand Lodge as opposed to the “Modern” original.¹⁹ Despite railing against the irreligiosity of the upper-classes, Dermott married the essential egalitarianism of the Masonic brotherhood to the Enlightenment inspired rejection of Christianity as a criterion for membership and, in fact, went further in articulating the Masonic philosophy as essentially deistic: “We pursue only the universal Religion, or the Religion of Nature.”²⁰ By the time the two lodges reunited in 1813, the deistic understanding of the Grand Architect of the Universe, who was known through reason and nature, had become accepted Masonic orthodoxy; members were free to be of any denomination, sect or religion (which was seen by Masonry as a personal patrimony of superstition) but had to accept and respect the contrary beliefs

¹⁸ See note 13.

¹⁹ For a summary of the split between the Ancient and Modern Lodges, see Jacob, 59-63.

²⁰ Lawrence Dermott, *Ahiman Rezon: or A Help to a Brother* (London: 1756), quoted by Jacob, 60.

of others in the society and not discuss God beyond the accepted, commonly expressed, belief.

This seemingly enlightened compromise, which swept aside religious differences in favor of the primacy of Masonic fraternity, was not, in its genesis, a deliberate subversion of orthodox Christian belief. Understood in the context of eighteenth century Great Britain it could, perhaps, be characterized as a confluence of: the comparatively doctrinally disinterested nature of that culture; the increasing prominence of Enlightenment thought; and the endless clubability of London society. But, as we have already noted, Freemasonry spread across to mainland Europe within the first few years of its existence; there it put down roots in countries with political, religious and social cultures radically different from that of Britain. While we will discuss at greater length later the important differences in belief and practice which have arisen over time between Anglo-Saxon and Latin-European Freemasonry, it is appropriate to touch briefly on some of the major developments now.

While wine merchants, clergymen and earls might gather and commonly confess their belief in an abstract and philosophical notion of God to little wider interest in London, in the Catholic nations of western and southern Europe this was a rejection both of the doctrines and authority of the Church and a subversion of the more socially rigid and stratified

monarchies of the continent.²¹ As a secret society which rejected the absolute authority of the Church and espoused radical fraternity within its ranks, it naturally drew in its fair share of free-thinkers, religious non-conformists, republican revolutionaries, anti-clericalists and atheists. The Grand Orients, as the national Grand Lodges of France, Italy and Spain have come to be known, have a markedly different character from those of Britain and America; as Margaret Jacob notes, from the time of their arrival in France, Masons there saw themselves as the cultural sons of Oliver Cromwell's revolution in England which ended in the murder of Charles I.²²

As we shall see, the Lodges which grew up in France, and later in Italy and Spain, differed greatly from their British counterparts; and, far from being the offensively establishment groups reviled by Dermott, grew to be distinctly radical (at least by comparison) in tone, membership and practice. So much so that by 1877, the Grand Orient of France had removed the obligation that members believe in God, formally opening membership to atheists and resulting in the Grand Lodge of England declaring them “irregular” and severing all ties. Latin Freemasonry, especially in France

²¹ Ridley, 47-49.

²² Jacob, 24-25

after the revolution, has become ever more institutionally anticlerical and anti-Catholic.²³

Today, the various Grand Lodges of Freemasonry, both Anglo and Latin, present a patchwork. The Grand Lodges of the various American States, for example, will differ one from another as to which of the various Orients they will recognize. There are undeniable differences between them regarding their attitude to the Church and religion in general, the practice of membership and the cultural perception of masonry, as well as the prevalence of Masons of the various local lodges subscribing to the higher degrees of the Scottish and Yorkish rites. What continues to unify them is their affirmation of the basic philosophy of Masonry, the rites and oaths of the first three degrees, and the primacy of the Masonic brotherhood in personal allegiance. From its earliest days Masonry presented what even academic commentators have recognized as “a cult of the enlightenment, presenting a set of distinctive values by which men... might now organize their lives.”²⁴

²³ Whalen, 39

²⁴ Jacob, 35

Masonry Crosses the Channel

There is a temptation to assume, given the antiquity and consistency of the Church's condemnation of Freemasonry, that its opposition existed from the moment of the creation of the first Grand Lodge in 1717. It was not, however, so. The condemnation of Freemasonry by the Church, while relatively swift, was not instantaneous. What is perhaps more important than the rapidity of the Church's response was her clarity on what she was condemning.

As will be demonstrated, the primary fear expressed by the several popes who have condemned Masonry was for the souls of those in the Church who might be seduced into the Masonic sects. This fear was well founded. Catholics were not, as a group, immediately or naturally suspicious of Masonry, nor immune to its charms. In fact, it was the members of the English Catholic diaspora who were instrumental in spreading Masonry to Europe. As we saw, the operative trade guilds, from which the Freemasonic lodges mutated, were, by their charters, sanctioned by the State and explicitly faithful to the teaching of the (Catholic) Church. In the religiously fractured landscape of the Reformation period, especially in Britain, religion became an acid test of fidelity to the government of the day.

The guilds, seeing religious pressures from without already affecting their trade, were loath to internalize the conflict, an attitude capitalized upon

by the growing number of Rosicrucian influenced accepted members, with their deistic and pan-religionistic philosophy. As such, Masons were merely asked to affirm their civil allegiance, leaving religious disputes outside the Lodge.²⁵

The so-called Glorious Revolution of 1688 in Britain dispossessed the rightful, religiously tolerant, Catholic, Stuart King James in favor of his daughter and Dutch, militantly Protestant son-in-law, William of Orange. Following his death and the infamous Act of Settlement of 1701, the punitive anti-Catholic laws put forward by the Hanoverians and Parliament, and the failure of the Stuart rebellion(s), eventually resulted in most prominent Jacobites fleeing to the continent.²⁶ While these included many senior Protestant non-conformists, the majority were Catholics. The Jacobite Masons, both Catholic and Protestant, established their own Lodges in exile, some of which were decidedly Catholic, with Jacobite Lodges to be found in the Low Countries, France, Spain and Portugal, Germany, Austria and the Italian peninsula.²⁷ As Masonry first spread across continental Europe it was its Jacobite/English character, with secularly dangerous ideas about

²⁵ Ridley, 40-41.

²⁶ Heywood & Craig, 286.

²⁷ Ridley, 50-51.

constitutional governance, that led the Protestant governments of Sweden, Holland, Hamburg and Geneva to all condemn the new movement, while the high number of Catholic refugees in their ranks led the Catholic ruler of Austria, Francis I, to serve as an open supporter and patron.²⁸ This initial confusion over who these Masons were: English revolutionaries or Catholic refugees, gradually gave way as the Holy See spoke out against the Lodge and as Continental Freemasonry began to develop its own distinct character.

The Church's Response

A total of eight popes wrote explicit condemnations of Freemasonry from the time of its inception until the promulgation of the first Code of Canon Law in 1917. All of them provided the strictest of penalties for membership; that of automatic excommunication reserved to the Holy See. What is important to consider, when reviewing these foundational texts, is what exactly the Church means by Masonry: how is it described; what are the qualities which are worthy of censure and condemnation; which are constitutive; which are merely incidental? Most importantly: does the Church condemn what Masonry *is*, or merely what it *does*?

²⁸ Joseph Quigley, *Condemned Societies*, Canon Law Studies 46 (Washington DC: Catholic University of America, 1927) 11-12.

In 1738, Clement XII published the Bull *In eminenti*.²⁹ It explicitly condemned and prohibited³⁰ the Masonic societies, giving various names by which they might be known, and provided a penalty of excommunication *latae sententiae*, reserved to the Roman Pontiff, for all those who enter, propagate, support, receive, hide, enroll in, be joined to, be present with, give power or permission for meetings, to help in any way, advise, encourage, support openly or in secret, directly or indirectly, such societies or those who urge, incite or persuade others to do so.³¹ It was, in short, a fairly explicit and all-encompassing condemnation of having anything to do with Freemasonry and provided the sternest possible penalties for doing so. But what was the reason?

It is a surprisingly common assumption that a central objection of the bull to Freemasonry was the supposed revolutionary or seditious character of Masonic Lodges. Ronny Jenkins states that the threat identified by the bull

²⁹ Clement XII, papal bull *In eminenti apostolatus*, 28 April 1738: *Magnum Bullarium Romanum seu eiusdem continuatio* [MBR] 118 (Luxemburg: Henric-Albert Grosse, 1727-1754) 15:184.

³⁰ A condemned society is one in which the Church forbids membership or which she declares illicit. Such a society might be condemned either by name, as is the case here with Freemasonry, or implicitly as would be the case for those societies which are not identified by a listed name but meet the criteria given for a general condemnation. The condemnation may have a juridic penalty attached or not. Membership of those societies for whom a juridic penalty is not attached should still be considered sinful, usually gravely so. Quigley, 7-10.

³¹ *In eminenti*, §3.

was to the “true teaching of the Church, but also to the stability of governments and society.”³² Margaret Jacob maintains that the primary offence of the Masons, in the eyes of the papacy, was Jacobite influenced republicanism and that the Masonic lodges were attacked as seedbeds of revolution.³³ This same assertion can be found throughout any survey of Masonic literature: the Church's condemnation of Masonry stems from a desire to preserve absolute monarchical power in Europe, and especially the Papal States. While the issue of active sedition, both civil and ecclesiastical, would eventually come to the front of the Church's canonical sanctions against Masonic membership, an actual examination of the text of *In eminenti* simply does not support this as the initial threat which the Church perceived.

What Clement describes is not a revolutionary society bent on regicidal republicanism but instead an agent of religious indifferentism; encompassing men of every religion and sect and uniting them under a pretended form of natural virtue. These men are then bound into strict fraternal union under

³² Ronny Jenkins, “Catholic Membership in Freemasonry,” *The Jurist* 56 (1996) 736-737.

³³ Jacob, 23.

private and secret laws by means of an oath taken on the sacred scriptures and the threat of grave penalties.³⁴

This serves well as a distilled version of what the Church understands to be Masonry, which will prove important later as numerous new Masonic societies arise under different names. The bull notes that these societies may indeed be a threat to civil institutions and society and that some civil authorities have moved to ban them. This is not, however, advanced as a reason for the Church to ban them; rather it is simply cited as evidence of the scale of the problem.³⁵ The rationale which Clement employed, and which brought him to the conclusion that the Church must act, is only incidentally related to the concerns of the State. Rather, his reasons are clearly given: having placed themselves beyond all laws, of both society and the Church, they represent a threat which could pervert the hearts of the simple and harm the innocent in secret.³⁶ The strict prohibition, in other words, was

³⁴ *In eminenti*, §1: "...in quibus cuiuscumque religionis et sectae homines, affectata quadam contenti honestatis naturalis specie, arcto aequae ac impervio foedere secundum leges et statuta sibi condita invicem consociantur, quaeque simulcam operantur tum districto iureiurando a sacra Biblia interposito tum gravium poenarum exaggeratione inviolabili silentio obtegere adstringuntur."

³⁵ *In eminenti*, §1: "Qui quidem rumor eo usque percrebuit, ut in plurimis Regionibus memoratae Societates per saeculi Potestates tanquam Regnorum securitati adversantes proscriptae, ac provide eliminatae jampridem extiterint."

³⁶ *In eminenti*, §2: "simplicium corda pervertant atque innoxios sagittent in occultis."

motivated by the care of souls.³⁷ From the outset, the primary concern of the Church has been that Masonry would suborn a Mason's membership of the Church to that of the Lodge, obliging them to place a deistic fraternity above communion with the Church, the Body of Christ.

It is interesting to note that no matter how explicitly and publicly the Church condemns Masonry, there are always those who seek to argue that the condemnation is either invalid, expired, or otherwise not in force and that, in fact, there is no bar, moral or canonical, to Catholic membership in a Masonic lodge. Such was the case following the death of Clement XII. Despite *In eminenti* stating explicitly that the prohibition and penalties for Masonic membership were perpetual,³⁸ there were those who argued that the authority of the bull lapsed with the accession of Benedict XIV. The argument advanced was that both the condemnation and penalties had to be explicitly renewed by the new pope and that, until he did so, the contents of *In eminenti* were no longer in force.

³⁷ *In eminenti*, §2: “Nos itaque animo evolventes gravissima damna, que ut plurimum ex huiusmodi Societatibus, seu Conventiculis nedum temporalis Reipublicae tranquillitati, verum etiam spirituali animarum saluti inferuntur...”

³⁸ *In eminenti*, §2: “causis nobis notis; eadem Societates... deque Apostolicae postestatis plenitudine damnanda & prohibenda esse statuimus & decrevimus prout praesenti nostra perpetuo valitura Constitutione damnamus & prohibemus.”

Enough people were willing to accept this argument that Benedict felt obliged to publish his response, *Providas romanorum*, in 1751.³⁹ In *Providas*, Benedict stated that this argument was a false one and that the decrees of his predecessor should be presumed valid and his assent passively given by not contradicting or repealing them.⁴⁰ Given the seriousness of the error, deliberate or accidental, and the gravity of the subject, *Providas* went to the length of republishing the whole of *In eminenti* within its text. To Clement's rationale, which was affirmed in its entirety, Benedict offered his own itemization of the malicious characteristics of Masonry and the reasons for their condemnation. First and above all, Masonry unites men of all faiths under a naturalistic philosophy which is clearly damaging to the purity of the faith of a Catholic.⁴¹ The second reason for which Masonry is condemned is the secrecy which the Lodge requires. Against this, the bull cites the legal maxim that “uprightness always welcomes openness, wretchedness secrecy.”⁴²

³⁹ Benedict XIV, papal bull *Providas romanorum*, 18 May 1751: *MBR* 18: 214.

⁴⁰ *Providas*, §3: “Cum autem, sicut accepimus, aliqui fuerint, qui affecere, ac vulgo iactare non dubitaverint, dictam ecommunicationis poenam a Praedecessore Nostro, ut praefertur, impositam non amplius afficere, propterea quod ipsa praeinferta Consstitutio a Nobis confirmata non fuerit; quasi vero pro Apostolicarum Constitutionum a Praedecessore editarum subsistentia, Pontificis Successoris expressa confirmatio requiratur.”

⁴¹ *Providas*, §7: “Porro inter gravissimas praestatae prohibitionis & damnationis causas in praeinferta Constitutione enunciatae, una est: quod in huiusmodi Societatibus & Conventiculis, cuiuscumque Religionis, ac Sectae homines invicem consociantur; quae ex re satis patet, quam magna pernices Catholicae Religionis puritati inferri valeat.”

⁴² *Providas*, §7: “Honestas semper publico gaudent, scelera secreta sunt.”

The oath by which this secrecy is enforced is the third reason given and is considered a discreet characteristic, to be condemned on its own, as it undermines the due process of law and the right of the Church and the State to question people in some circumstances. Benedict then noted that membership of such societies is illicit in principle, because of their unsanctioned nature and their code of private law which supplants the law of both Church and State, and is often illegal in fact because of the particular statutes of different countries.

Thus we can observe, from this list of the damnable aspects of it offered by Benedict, that Masonry is condemned for what it *is*, not what it *does*. There is, certainly, evidence that the revolutionary activities of at least some Masonic sects of the time were both real and known. Equally certainly, the Church was against such activity. Nevertheless, according to the wording of the text of *Providas*, Masonic lodges could meet and do nothing but play cards and still be a society which posed a grave danger to the faith of members and supplanted the rule of law. Masonry undermines the faith and authority of the Church *passively*, by its very existence, and not only by some deliberate action taken by its members. While this spiritual danger to the faith is the principle concern of the Church's prohibition of Catholic joining the Freemasons, it is not to say that the Church did not condemn, where

appropriate, the violently seditious acts either of Masonic societies directly, or those inspired by the philosophy of the Lodge.

A Mason By Any Other Name

This corrosive philosophy, which undermines both ecclesiastical and civil society, was condemned anew by Pius VI. While not mentioning Freemasonry by name or targeting secret societies specifically, in his first encyclical, published in 1775 and entitled *Inscrutabile*,⁴³ he identified a distinct philosophy as the chief enemy of the Church at the time. He described a group of “accursed philosophers” who tear out religion from men's hearts and seek to supplant the rightful authority of the Church and the State, dissolving the bonds of society and imperiling the souls of the baptised and creeping like a cancer into every corner of society.⁴⁴ *Inscrutabile* was written at a time when the philosophical thought of the Enlightenment had begun to crystallize into revolutionary political action across the western

⁴³ Pius VI, encyclical letter *Inscrutabile*, 25 December 1775: *Bullarium romani continuatio Summorum Pontificum* [BSP] 19 vols. (Rome: Ex Typographia Reverendae Camerae Apostolicae, 1838-1855) 5: 176-180. Cited by Quigley, 15.

⁴⁴ *Inscrutabile*, §7: “Et vero his offusis tenebris, atque evulsa e coribus religione, id praeterea adgrediuntur perditissimi hi philosophi, ut quibus homines vinculis inter se atque cum dominantibus conjunguntur, et in officio continentur, ea omnia dissolvant; liberum hominem nasci ad nauseam usque clamitant, regeruntque, nec cuiusquam obnoxium imperio; societatem propterea multitudinem esse hominum ineptorum, quorum se prosternat sacerdotibus, a quibus decipiantur, coram regibus, a quibus opprimantur... animabus vero Christi sanguine redemptis eo esse graviore detrimento, quo, ut cancer, sermo eorum latius serpit atque se intrudit in publicas academias in magnatum domos, in aulas regum, et, quod horrendum dictu prope est, etiam in sanctuarium se insinuat.”

world: within twenty five years both Britain (in her American colonies) and France, the two world super powers, would see violent institutional change underpinned by rationalistic schools of thought and wholly opposed to any place for the Church in public affairs. The dangers posed by the Masonic philosophy were becoming more apparent.

As we shall see, there was, at times and in places, a definite connection between revolutionary action and secret societies which should, canonically, be considered Masonic. Nevertheless, it is important that we maintain the distinction between the damnable *action* of some revolutionary societies, called Masonic by the Church, and the condemned philosophy to be found in Masonry everywhere. The rush to see the active and coordinated participation of Masonic Lodges *qua* Masonic Lodges everywhere a government faced unrest has, unfortunately, obscured this difference. Perhaps the single greatest exacerbating factor of this confusion comes from the popular fascination, both in the middle of the eighteenth century and now, with a small group of Bavarians.

The Illuminati, as they grandly styled themselves, were, initially, a group of five men founded by Adam Weishaupt, a professor of canon law at Ingoldstadt University. While an outwardly unremarkable, if slightly unorthodox, professor at a notable Catholic university, Weishaupt was in private, under the pseudo-name of Spartacus, a radical revolutionary,

advocating the overthrow of every religious, temporal and spiritual power and the establishment of a new libertarian world order, led by himself and the Illuminati.⁴⁵ He also saw the Freemasons, of which he was a member and which embodied many of the egalitarian and religiously indifferent ideals he propounded, as the ideal vehicle for the fomenting of his revolution. As he began using the Lodge to canvass for support for his views, he fell afoul of the aristocratic members, who had his alter ego revealed. He was expelled from Ingoldstadt and had to flee Bavaria.

When his papers were seized and the full hubris of his aims, and the actual limitations of his organization (never more than 1,000 members even on paper, and usually no more than a few hundred), were laid bare, the public response was to take the Illuminati far more seriously than they deserved; a more appropriate reaction to an delusional professor plotting world domination over the brandy with his friends might have been to laugh. Nonetheless, Weishaup's work did successfully associate the Masons with revolutionary plots in the public consciousness. In the same way that the secret signs and stories of "sacred mathematics" served to attract the Rosicrucians to the Masons in earlier years, and eventually imparted a mystic and esoteric character to the Lodge, so the tail once more wagged the dog as the Illuminati scandal served to attract a more politically radical class

⁴⁵ Ridley, 114-115.

of members, which helped form the decidedly more militant character of European Freemasonry.

Church and State

There is little, if any, historical evidence of the Lodges playing an active role in beginning the French Revolution. We can, however, trace a clear line from the anti-clerical and anti-Church horrors of the Revolution back to the rationalistic mentality described in *Inscrutable*, of which the Masonic lodges were the seed-beds, and which caused Freemasonry to direct its ire more particularly against the Church. The *Culte de la Raison*, with its blasphemous festival, culminating in the desecration of Notre Dame Cathedral in Paris, underlined the extremism which lurked beneath the liberty, equality and fraternity which formed the new opposing orthodoxy and illustrated graphically how Church and State would suffer alike in the chaos of revolution. While the public were quick to look for Masonic or Illuminati monsters under the bed, what had been perceived by the three preceding popes was that it was the philosophy which underpinned Masonry, under its various names, which was the threat. These societies were condemned not because they set out to threaten civil or Church authorities but because such a threat was the inevitable consequence of their existence and growth; revolution was the symptom not the disease.

The alignment of Church and State interests, and their assault by seditious and revolutionary secret societies, were clearest where the Church and State were one: in the Papal States of the Italian peninsula. As the nineteenth century began, there came to prominence a new iteration of Freemasonry which was explicit in its revolutionary character and avowed in its opposition to the Church; they styled themselves the *Carbonari*, or charcoal merchants. Their synonymy with Masonry, at least in the *mens legislatoris*, was amply demonstrated by their inclusion, by name, in subsequent papal condemnations and prohibitions of Masonry. They operated a two stage membership of apprentice and master, similar to the three degrees of Blue Lodge Masonry, and enforced their code of secrecy with oaths promising violent and gruesome torture and death for violations. The fraternal bond, like Masonry, encompassed all men of the 'true religion' of deistic principles; and Master Masons could join a *Carbonari* lodge without having to go through the apprentice level. *Carbonari* were constitutionally opposed to what they saw as oppressive governments and the oppression of the mind represented by the Church. They sanctioned and practiced both assassination and armed insurrection against the various governments of the Italian peninsula in their campaign for constitutional government and were

perceived as an immediate threat to the faith, the Papal States and the person of the pope.⁴⁶

The link between the passive threat of the philosophy and secrecy of Masonry and the active revolutionary plots and acts of the *Carbonari* was laid out in Pius VII's apostolic constitution *Ecclesiam a Jesu Christo*, promulgated in 1821.⁴⁷ *Ecclesiam* recalled the descriptions of the societies prohibited in both *In eminenti* and *Providas*, and which were properly included under the name Masonic, and noted again that there were many such names by which these societies were known,⁴⁸ including now the *Carbonari*, who were likewise included under the same condemnation and prohibition, this time with an obligation placed on Catholics to inform on any whom they knew to be involved with them. While their avowed and active opposition to the temporal governance of the Papal States was addressed and condemned, it was still made clear that the gravest threat posed even by these violently revolutionary cells, was the undermining of the faith through

⁴⁶ Henri Daniel-Rops, *L'Eglise des Révolutions: en face des nouveaux destins* (Paris: Librairie Arthème Fayard, 1960) III. Whalen, 178. Quigley, 14.

⁴⁷ Pius VII, apostolic constitution *Ecclesiam Jesu Christo*, 13 September 1821: *BSP* 15: 446-448.

⁴⁸ *Ibid.*, §7.

the spread of religious indifferentism.⁴⁹ *Ecclesiam* also especially noted and denounced the rituals of the *Carbonari* as a desecration of the Passion and a sacrilegious substitution of the sacraments.⁵⁰ This is new: previous condemnations of Masonry alluded to secret rites and oaths being, by their secret and illicit nature, wrong; but Pius VII expressly condemned them as a mockery of the sacramental life and power of the Church, adding quasi-religious ritual to their heretical doctrines.

Leo XII, who upon his election quickly felt it necessary to publish his own encyclical on secret societies, *Quo graviora*,⁵¹ which republished the entirety of *In eminenti*, *Providas* and *Ecclesiam* within his own text. After reaffirming all the previous condemnations of the previous popes, Leo focused his own contribution on a society called *Universitaria*, which had become particularly influential in the universities of the time and was “not educating the youth but perverting them.”⁵² Leo, like Pius VII, acknowledged the revolutionary actions, against both Church and State, which were sanctioned

⁴⁹ Ibid, §5: “Carbonarios id paecipue spectare, ut magnam licentiam cuique dent religionem, quam colat, proprio ingenio, et ex eius opinionibus sibi fingendi, indifferentia in religionem inducta, qua vix quidquam excogitari potest perniciosius.”

⁵⁰ *Ecclesiam*, §5: “ut Jesu Christi passionem per nefarias quasdam suas caeremonias profanent ac polluant; ut Ecclesiae sacramenta (quibus nova alia a se per summum scelus inventa substituere videntur) et ipsa religionis catholicae mysteria contemnant.”

⁵¹ Leo XII, encyclical letter *Quo graviora*, 13 March 1825: *BSP* 16: 345-355.

⁵² *In eminenti*, §2: “qui eos non docere sed pervertere.” See also Jenkins, 737.

by secret societies, but focused on the publishing and dissemination of ideas and teachings as the root and primary evil behind the seditious movements and which represented the threat to the existence of the Church. *Quo graviora*,⁵³ like previous papal condemnations, was concerned primarily with the anti-religious nature of the societies' teachings and the corrosive impact which they have on the whole of society, civil and ecclesiastical. It is this nature which is the identifying characteristic to be used in place of the explicit title "Masonic." Indeed; apart from within the text of the republished documents *In eminenti* and *Providas*, there was no nominal mention of Masonry. In the same way in which *Ecclesiam* simply added *Carbonari* to the previous prohibitions, *Quo graviora* added the term *Universitaria*. These additions are not to be understood as discreet societies but simply as new names by which the original menace had begun to be called.⁵⁴ The identifying characteristics of such societies (which should all be understood as Masonic, regardless of the name by which they are known) remained the same: the observance of total secrecy amongst and about the society, beyond the laws of

⁵³ *Quo graviora*, §7: "Libri, quos de religione et republica scribere non dubitarunt, qui his sectis nomen dederunt, quibus dominationem sperunt, majestatem blasphemant, Christum autem vel scandalum, vel stultitiam dictitant; imo non raro nullum esse Deum, et hominis animam una cum corpore interire docent: codices et statuta, quibus sua consilia, et instituta explicant, aperte declarant cuncta, quae iam memoravimus, et quae ad legitimos principatus labefactandos et Ecclesiam funditus delendam spectant, ab iis proficisci."

⁵⁴ *Quo graviora*, §10: "Atque hoc veluti certum, exploratumque est, has sectas licet nomine diversas, nefario tamen impurissimorum consiliorum vinculo esse inter se coniunctas."

Church or State; the administration of an oath of secrecy; the holding and promotion of teachings antithetical to the faith and corrosive to society, specifically that of atheistic or deistic principles. While obviously explicitly condemned, the actual plotting of physical revolution or sedition was not included as an action constitutive of a prohibited society; it was the “proposing” of ideas against the Church and State within the society and to its own members.⁵⁵

As Quigley notes,⁵⁶ Pius VIII, who succeeded Leo XII, reigned for only eighteen months and yet considered it important to make a further condemnation of secret societies. In *Traditi*, published in 1829,⁵⁷ no nominal mention was made of Freemasonry. Indeed no particular name was used to identify these secret societies though they should correctly be identified as Masonic.⁵⁸ While reiterating the danger of the existence of secret societies which infiltrate all corners of civil and ecclesiastical society and pervert faith

⁵⁵ Ibid, §11

⁵⁶ Quigley, 17.

⁵⁷ Pius VIII, encyclical letter *Traditi humilitati*, 24 May 1829: *BSP* 18: 17-20.

⁵⁸ Quigley, 17 and Jenkins, 737. Though neither Quigley nor Jenkins give a direct textual analysis of *Traditi*, as current canonical debate on the issue of Masonry centers around the wording of the 1983 Code of Canon Law and its non-inclusion of the word “Masonic” or “Freemasonry”, the first canonical prohibition not to use those words explicitly, but instead to render a description of what should be understood by them (the primary character of membership, the insistence of religious relativism or indifferentism, the observance of secrecy) can be instructively employed.

and morals, especially in the arena of education,⁵⁹ Pius reaffirmed that their chief evil, which was not secret at all and constituted a plot against the Lord and His Christ, was the spreading of the doctrine of religious indifferentism.⁶⁰ Gregory XVI, in his turn, said the same and, crucially, made clear that the revolutionary movements waging open conflict with the authority of the Church and State grew out of the subversive doctrines of the secret societies. The two are linked but held as separate cause and effect: the violent overthrow of legitimate secular power and the displacement of the Church's authority stem from the heretical and blasphemous teachings of the secret societies which incubated the philosophies which drive them.⁶¹ The worst of these philosophies, we will not be surprised to read, is religious indifferentism, identified by name and described in the same terms in which

⁵⁹ *Traditi*, §§5-6.

⁶⁰ Ibid, §3: “Loquimur de innumeris errorum commentis, doctrinaeque perversae institutionibus, quibus non occulte et clanculum sed aperte ut plurimum et acerime catholica fides oppugnatur... Vere convenerunt in unum adversus Dominum et adversus Christam eius... Huc spectat teterrima sophistarum huius aetatis machinatio, qui nullum inter diversas fidei professiones discrimen admittunt, omnibusque aeternae salutis portum ex religione qualibet patere arbitrantur.”

⁶¹ Gregory XVI, encyclical letter *Mirari vos*, 15 August 1832: *BSP* 19: 126-132, §5: “Quae quidem tanta calamitatum congeries ex illarum in primis conspiratione societatum est repetenda, in quas quidquid in haeresibus et in sceleratissimis quibusque sectis sacrilegum, flagitiosum, ac blasphemum est, quasi in sentinam quamdam, cum omnium sordium concretionem confluit.”

it was denounced by previous letters against Masonry, which gives rise to the extreme license of personal conscience and rejects all legitimate authority.⁶²

Gregory outlined the supreme expression of this relativism and its inevitable goal; the separation of Church and State, predicting that the eventual end being sought was not only the severing of the ties between the Church and the Government but the total exclusion of the Church from public affairs.⁶³

This militant secularism can seem dramatic when we recall that the charter of the first Grand Lodge was drafted by, among others, the clergyman Dr. Anderson. And indeed there has come to be a great distinction to be drawn between the characters of European and Anglo-Saxon Freemasonry. Before we can consider the relevance of these differences in character, and what effect they might have, from a canonical standpoint, we must first understand more fully what they are and how they came to be.

To G or Not To G: Freemasonry in Revolutionary Europe

While the Church's condemnations of Freemasonry have always been explicitly global and not dependent on cultural context, it is possible, indeed necessary, to identify two distinct branches of Masonry within the global

⁶² *Mirari vos*, §13

⁶³ *Ibid.*, §§20-21.

Masonic framework: those lodges which descend from and remain in communication with the Grand Lodge of England, which include Scotland, Germany, Scandinavia and North America, and those which arose from Continental practice and are now known as the Grand Orients: France, Italy, Spain, and South America.⁶⁴ These divisions may be considered under the broad headings of Anglo-Saxon Freemasonry and Latin or Continental Freemasonry. While there are obvious, wider differences to be identified between these two cultural blocks, which influence everything from legal systems to literature, there are particular differences in Masonic character which demand consideration.

As has been discussed, the cultural context in which the Masonic Lodges originally took root influenced profoundly their membership. While certainly socially stratified, parliamentary England actually presented a society comparably open and mobile in comparison to the more absolutely monarchical states of continental Europe. Similarly the Church of England, while established, was sufficiently disinterested in doctrinal matters that its clergymen were uncontroversially instrumental in creating Masonry. Thus, Anglo-Saxon Masonry became highly respectable, establishment and, at least

⁶⁴ The Low Countries of The Netherlands and Belgium, together with Switzerland, have both strains of Masonry present.

in the make-up of its majority membership, Protestant.⁶⁵ Continental Freemasonry, on the other hand, existed within the context of a more rigid civil framework with a more feudal system of government remaining largely intact. Society also benefited from the preservation of the establishment of the Catholic Church and the general resistance to the heresies of the Protestant Reformation. As a result, the Lodges were not only secretive by nature, but also by necessity, as membership was often contrary to both the civil and ecclesiastical norms.

In much the same way as the pseudo-gnostic character of the Masonic system of rituals and passwords served to attract the Rosicrucians of Stuart England, who in turn influenced the actual character of the Lodge, Continental Lodges, being by their nature illicit, accordingly drew in a proportionally much higher percentage of revolutionary dissidents, religious non-conformists and anti-clericalists.⁶⁶ This in turn imparted a more radical nature to the workings of the Lodge in these countries, serving to orient them more directly against the Church as an institution, and make the Lodge the seedbed of revolution under the banner of supposedly progressive Enlightenment thought.

⁶⁵ Whalen, 39.

⁶⁶ Jacob, 27.

The culmination of the more radical attitude of the European Grand Orients, as the Grand Lodges there are called, can be seen in France, where, in 1877, the national Grand Orient removed the fundamental requirement that a Mason, without distinction of religion or practice, at least believe in God.⁶⁷ This renunciation of even basic deism was enshrined in Continental Masonic practice and symbolism in two major ways: the book of sacred scripture was removed from the center of the Masonic assembly, meaning new Masons no longer took an oath on a sacred text, and the “G”, which has been variously interpreted as standing for “God” or “Grand Architect of the Universe” was removed from the center of the Masonic emblem of the square and compass. This was argued by the French Masons to constitute the final and supreme expression of religious toleration, which the Masons had so long espoused. However, it proved too much for the English Grand Lodge, which declared them irregular, and for its daughter Lodges in the United States who followed suit.⁶⁸ While viewed as a dangerous break with tradition by the Anglo-American Lodges, these changes were subsequently adopted by the Grand Orients of the other Latin countries.

The open, and both philosophically and physically violent, hostility of the Lodge to the Church in the Latin European countries is a matter of

⁶⁷ Whalen, 173.

⁶⁸ Stillson, 491; Heywood & Craig, 295; Ridley, 220.

historical record. As has been discussed, in addition to the French Revolution, the emergence in Italy of a violently seditious strain of Masonry called the *Carbonari* led to a revolutionary assault on the religious hierarchy of the Church and her temporal governance of the Papal States.⁶⁹ This paved the way for Garibaldi and Victor Emmanuel (both of whom were Freemasons)⁷⁰ to launch their concerted campaign of unification on the Italian peninsula. Garibaldi himself founded the Italian Grand Orient in Palermo in 1861,⁷¹ served as the Grand Master of Italian Freemasonry for a number of years,⁷² and had his own tomb decorated with Masonic insignia.⁷³ That his campaign was supported by the broader Masonic community is well known; and it was the influence of Masonry (including the *Carbonari*) which can be seen in Garibaldi's denunciation of the Papacy as the "cancer of Italy."⁷⁴

In Spain, the Lodge was viewed, from its earliest days, as a manifest danger to both the Church and the State and was strongly and effectively

⁶⁹ See note 45.

⁷⁰ Ridley, 210.

⁷¹ Stillson, 495.

⁷² Ridley, 220.

⁷³ Whalen, 178. Mussolini had all Masonic symbols removed and replaced with Imperial Roman badges.

⁷⁴ E. E. Y. Hales, *Pio Nono* (New York: Image Books, 1962) 271.

opposed by the commendably zealous cooperation between the Spanish Government and the Church, with Ferdinand VI eventually ordering, in 1751, a penalty of summary execution for Masons captured at a Lodge meeting.⁷⁵ Masonic sources themselves acknowledge that the unified front of Church and State in Spain presented the stiffest opposition to Masonic influence, politically and culturally.⁷⁶ In contrast to the confused landscape of the French Revolution, which quickly lapsed into a bloody morass of denunciations and counter-denunciations by the revolutionaries with Masons taking and losing heads on all sides, in Spain the Lodges really were the secret network of anti-Catholic revolutionary cells which some Catholics feared.⁷⁷ This was particularly the case during the nineteenth century.

During the Napoleonic occupation of Spain, under the puppet dictatorship of Joseph Bonaparte, all restrictions on Masonry were lifted; Bonaparte himself participated in the founding of the Grand Orient of Spain in 1811, which was conceived and used as a means of undermining the faith of the population and the position of the Church in the country.⁷⁸ Freemasonry was suppressed again by Ferdinand VII in 1814 and thereafter

⁷⁵ Heywood & Craig, 300.

⁷⁶ Stillson, 496.

⁷⁷ Ridley, 196.

⁷⁸ Stillson, 496-497.

followed a pattern throughout Spanish history of being violently opposed to the King and the Church. When Freemasons did achieve periods of civil power through revolution, as in the Liberal Mutiny of 1820, they enacted legislation to suppress religious orders and monasteries and confiscate all Church property.⁷⁹ At the same time, *Carbonari* and Masonic Lodges instigated a revolution in Naples. The threat of mass revolution spreading throughout Europe drew together the powers of the Holy Alliance, which included Prussia, Austria and Russia with at least token support of the Papal States, who intervened to restore peace in Naples and abolish Liberal rule in Spain. That the secular revolutionaries had been opposed by the crown and the mitre from the beginning, and were eventually put down by them acting together, further cemented the Masonic view that Church and State were cooperators in tyranny and were to be opposed with equal vigor. A further lesson from Spain was that the peasant class sided with the Church, rather than their middle class liberators (the lawyers and writers of the Freemasons). This impressed upon the revolutionaries the need to destroy the Church first, in order to then be able to properly enlighten the poor and inspire them to revolution,⁸⁰ this foreshadowed the later Marxist denunciation of religion as the opium of the masses.

⁷⁹ Ridley, 197.

⁸⁰ Ridley, 196-200.

As we have observed, the revolutionary violence and anticlericalism of Freemasonry, and the singular vehemence with which they opposed the institutional Church, is roughly correlated to the position the Church occupied within the particular country. That this was especially illustrated in Spain should leave us unsurprised to learn it also became a clearly observable reality in that country's South American colonies as well. The most famous revolutionaries of South America, who led their respective countries to independence and remain iconic cultural influences, were Freemasons: Bolívar in Venezuela; Juárez, Rameríz and Díaz in Mexico; O'Higgins in Chile.⁸¹ It is not coincidental that these same countries, at the time of their independence, instituted punitively anti-clerical legislation, often banning religious orders from the country and denying the Church the right to own property. Indeed many of these laws remain in force across the continent, even if cultural convention means they are often ignored.

This being a brief resumé of the activities of Freemasonry in Europe during the eighteenth and nineteenth centuries, it is perhaps not surprising that Masonry continued to be a point of major concern for the popes and would continue to feature prominently in their writings and canonical reforms.

⁸¹ Whalen, 185.

Towards the 1917 Code: Freemasonry, Pius IX and Canonical Reform

While Leo XII granted a period of one year, 1825, in which the reservation of the censure of excommunication was relaxed,⁸² there was, throughout this time, a strict maintenance of the penalties imposed on anyone having anything to do with Masonic sects, under any name. Membership was, of course, the primary act prohibited, but the exhaustive list of supporting behavior which also led to the incurring of the excommunication remained intact. The key canonical nuance to be observed in the language may be identified as the way in which Masonic societies are said to act against the Church. As we have seen, the primary action of the lodges which warrants condemnation is the spreading of false doctrine among the faithful. The undermining of the teachings of the Church and the suborning of her authority on matters of faith and morals were described repeatedly as an attack on the Church. What is most important to note is the first use of the Latin word *machinatio* and its derivative verb.

The canonical meaning of this word, often translated in English as “plot”, is central to the contemporary debate over the continued canonical prohibition of Masonic membership; it is therefore vital that we examine how it was used in the development of the Church's attitude towards Masonry.

⁸² Quigley, 17.

The first use of the term to be found in papal documents relating to Freemasonry was in *Traditi*. As has been discussed, *Traditi* used no particular name to describe the secret societies which we broadly categorize as Masonic. But in addition to their critique by Pius VIII, societies which printed and freely distributed the Bible, in the vernacular and without the necessary commentary of the Church, were separately mentioned and condemned within the text. These were mentioned as a serious threat of their own, though a less significant one in comparison to the religious indifference of Masonic philosophy. Their work, the distribution of vernacular Bibles, was described as a plot or *machinatio* against the Church⁸³ although they had nothing to do with forming explicit plans or actions against the institutional Church directly; that their existence undermined the faith and posed a danger to it was sufficient to merit the term “plot.”

Secret societies promoting Masonic philosophy were condemned anew by Pius IX, together with Bible societies and communism, in the 1846 bull *Qui pluribus*, which restated that the first fault of such societies was their deistic and rationalistic principles and the dissemination of these views, by word and in print, which are their method of “war” against the whole

⁸³ *Traditi*, §5: “huiusmodi adversus Catholicam fidem machinationes.”

Catholic Church.⁸⁴ This marked the beginning of his many condemnations of Masonry.⁸⁵ In perhaps the most significant reform of penal law in the Church since the Council of Trent, Pius undertook a review of all canonical legislation which provided for a censure *latae sententiae*. Some 300 years of overlapping statutes, papal bulls and encyclicals, together with shifting historical and cultural conditions, had created enormous scope for confusion. The result of this review was the apostolic constitution of October 1869, *Apostolicae Sedis moderationi*, in which were recapitulated all those delicts by which one would still to incur a censure *latae sententiae*, and omitting those which were to be considered abrogated.⁸⁶ The comprehensive list of those covered by the censure for Masonry, which began with *In eminenti* and had been confirmed by six subsequent popes, was distilled down into item IV of the excommunications *latae sententiae* reserved to the Roman Pontiff.⁸⁷ Thus those who joined the Masons, Carbonari or other societies of the same kind were still excommunicated *latae sententiae*, as were those who protected

⁸⁴ Pius IX, encyclical letter *Qui pluribus*, 9 November 1846: *Acta Pii*, I, 1:14-24, §4.

⁸⁵ Pietro Gasparri, *Codicis iuris canonici fontes*, 9 vols. (Rome: Typis Polyglottis Vaticanis, 1923-1939). See vols. 2-3, Nos. 504, 507, 518, 534, 542, 552, 554, 556.

⁸⁶ Pius IX, apostolic constitution *Apostolicae Sedis moderationi*, 12 October 1869: *Acta Sancta Sedis* [ASS] 5 (1869) 305-331.

⁸⁷ *Apostolicae Sedis*, 311: "Nomen dantes sectae Massonicae, aut Carbonariae, aut alis eiusdem generis sectis quae contra Ecclesiam vel legitimas potestates seu palam, seu clandestine machinantur, nec non isdem sectis favorem qualemcumque praestantes; earumve occultos coriphaeos ac duces non denunciantes, donec non denunciaverint."

them. The censure was also retained for those who did not denounce the *leaders* of such societies, though it did not extend to include denunciation of mere members. Of particular note is that secrecy was not considered an essential characteristic; the law said either in public or in secret. The most significant question to be asked when examining the wording of the text is: what is meant by *eiusdem generis*? Or more precisely, to what does this refer?

If the text is read as “Those who give their names to Masonic or Carbonari sects, or similar societies, which plot against the Church or legitimate authority...” with similar societies referring back to Masonic sects, then it can be read to mean other societies alike to Masonry in secrecy, rite, etc. and plotting against the Church qualifies the prohibition on membership of all three categories. Conversely, if the text is read as ...” Masonic or Carbonari societies, or similar societies (no comma) which plot against the Church or legitimate authority...”, then it is the act of plotting, publicly or secretly, which makes them similar to the Masons who represent such a plot in the Church's very understanding of them.⁸⁸ This would seem to be the reading more in keeping with the understanding of Masonry as variously an attack or plot against the Church by its nature as a consequence of its basic principles.

⁸⁸ For support for the argument regarding the correct understanding of the canonical use of *machinatur*, see Quigley, 65.

Legal analysis often rewards pedantry and it could be suggested that the presence or absence of a comma after *sectis* is crucial here; examination of the *Acta* shows there is no comma. Quigley outlines a very similar argument over the correct direction of the clause *eiusdem generis* and comes to the same conclusion, though it must be noted that in his citation of the text he does place a comma after *sectis*.⁸⁹ In his final letter concerning Masonry, *Etsi multa*,⁹⁰ Pius IX conducted a tour of European and American oppression of the Catholic Church, the usurpation of ecclesiastical authority and the subversion of doctrine. Considering the scale and diversity of the attacks faced by the Church, Pius was firm in his assertion that the root of these public assaults lay in the Masonic sects, from which comes the humanistic mentality responsible for the removal of Christianity from public affairs in many countries and the direct refutation of all that the Church teaches.⁹¹ The outward actions against the Church were taken by public bodies, in some cases governments; but the Masonic plot, which is the spreading of their anti-religious philosophy, is the root.

⁸⁹ Quigley, 20.

⁹⁰ Pius IX, encyclical letter *Etsi multa*, 21 November 1873: ASS 7 (1873) 496-512.

⁹¹ Ibid, 510: "Mirabitur fortasse quispiam ex Vobis, Venerabiles Fratres, tam late patere bellum quod aetate nostra Ecclesiae catholicae infertur. Verum quisquis probe noverit indolem, studia, propositum sectarum, sive masonicae dicantur, sive alio quovis nomine veniant, aequae conferat cum indole, ratione, amplitudine huius concertationis, qua ferme ubique terrarum Ecclesia impetitur, ambigere non poterit, quin praesens calamitas fraudibus et machinationibus earumdem sectarum potissimum accepta referenda sit."

Leo XIII

Leo XIII is, perhaps rightly, the pope most commonly associated with the Church's condemnation of Freemasonry. Over the course of his twenty-five year pontificate, so many of his encyclical letters and other documents contain references to Freemasonry, and the philosophies which come from it, that it is difficult to arrive at a certain number. What we can say is that he issued two separate encyclicals which dealt directly and explicitly with Freemasonry: *Humanum genus*, on Freemasonry in the whole world; and *Dall'alto dell'apostolico Seggio*, on Freemasonry specifically in Italy.

In *Humanum genus*⁹² Leo uses St Augustine's metaphor to describe Masonry as the personification of the second city, opposed to the City of God, and states clearly that it is the constitution and spirit of Masonry which is the source of its inherent evil, threat to Church and State, and prohibition by successive popes.⁹³ He recognised the differences between societies regarding rites, names and origins, but determined them all to be bound together and properly understood as Masonic.⁹⁴ This is significant as it underscores that a society similar to the Masons (*eiusdem generis sectis* according to the law of

⁹² Leo XIII, encyclical letter *Humanum genus*, 20 April 1884: ASS 16 (1884) 417-433.

⁹³ Ibid, §6.

⁹⁴ Ibid, §9: "Variae sunt hominum sectae, quae quamquam nomine, ritu, forma, origine differentes, cum tamen communione quadam propositi summarumque sententiarum similitudine inter se contineatur, re congruunt cum secta Massonum."

Apostolicae Sedis moderationi), does not mean 'similar' in any of these characteristics, since differences here are acknowledged, but similar in their rationalistic and naturalistic ideology, the ends of which are the utter removal of the Church and her teachings from society and public affairs. The most important point to be drawn from *Humanum genus* when considering what it is the Church condemns in Freemasonry is stated clearly by Leo: that Masonry is to be judged (and condemned) by the body of its opinions, not its acts.⁹⁵ Here we have the proper lens through which to understand, in harmony with the writings of all the popes from Clement XII to Leo XIII, what constitutes the *machinationes* of the Masonic societies, whatever they may be named, and how to determine their Masonic character.

The principle end of the Masonic philosophy is the removal and exclusion of the Church from the sphere of public affairs and the eventual removal of its ability to proclaim the Gospel and the truth of her teachings. The gradual transition of Western society towards an aggressive form of secularism which moves through, and past, mere pluralism to the imposition of a new, anti-religious uniformity, is treated in a number of Leo's encyclical

⁹⁵ Ibid, §11: "Quia Massonicum foedus non tam est ab actis perfectisque rebus, quam a sententiarum summa iudicandum."

letters.⁹⁶ This change is considered to be explicitly Masonic in character and influence and, as we shall see later, is invoked by the Commission for the Revision of the Code of Canon Law as a barometer of the success of the Masonic philosophy in a particular society.

The philosophical character of Masonry as a deliberate subversion of the Church finds, perhaps, its clearest expression in the document known as the *Permanent Instruction of the Alta Vendita*. This document, which was first circulated in the 1820's during the reign of Gregory XVI, was ordered published by both Pius IX and Leo XIII.⁹⁷ It purports to be a blueprint of the Freemasonic ambitions to undermine and eventually destroy the credibility of the Catholic Church, and especially the Papacy. This is to be achieved through the gradual infiltration of teaching positions in Catholic universities, and especially seminaries, with the intention of disseminating Masonic principles and instilling relativistic teaching within successive generations of clergy until such time as the Church became unwittingly institutionally Masonic in its philosophy.

The document itself is, at best, of doubtful provenance, and it is not the intention of this work to give unflinching credibility to any and all

⁹⁶ See especially: Leo XIII, encyclical letter *Etsi nos*, 15 February 1882: ASS 14 (1881) 337-345. Idem, encyclical letter *Dall'alto dell'Apostolico Seggio*, 15 October 1890: ASS 23 (1890-1891) 193-206.

⁹⁷ John Vennari, *The Permanent Instruction of the Alta Vendita* (Rockford: TAN, 1999) 5.

accusations left at the Lodge door. However, the fact that the two popes, Pius IX and Leo XIII, who were most prominent in defining the canonical prohibition of Masonry, and the nature of the plot which it represents, both ordered its publication and appropriated much of its substantive content in their own writings, means that we can view it as an useful source for understanding the dangers of Masonry in the mind of the legislator.

If the *Alta Vendita* gives us some understanding of the internal threat to the Church which Masonry was understood to pose, we must also consider the external, societal, threat which Masonry was understood to pose and which constituted the threat to the State. The State, in this sense, does not mean any civil power capable of imposing its will, but rather the State as understood by the Church as legitimate civil power, which recognises the role and freedoms of the Church and which functions as a partner in the ordering and governance of society, as we saw in the case of Spain. Regarding the Masonic threat to the State, this is clearly articulated in Leo XIII's encyclical letter *Dall'alto dell'Apostolico Seggio*. In this letter there is an entire section headed "The Masonic Ideal" in which Leo describes the nature of the plot to be thus:

The action of these sects is at present directed to attain the following objects, according to the votes and resolutions passed in their most important assemblies, votes and resolutions inspired throughout by a deadly hatred of the Church:

The abolition in the schools of every kind of religious instruction, and the founding of institutions in which even girls are to be withdrawn from all clerical influence whatever it may be; because the State, which ought to be absolutely atheistic, has the inalienable right and duty to form the heart and the spirit of its citizens, and no school should exist apart from its inspiration and control. The rigorous application of all laws now in force, which aim at securing the absolute independence of civil society from clerical influence. The strict observance of laws suppressing religious corporations, and the employment of means to make them effectual. The regulation of all ecclesiastical property, starting from the principle that its ownership belongs to the State, and its administration to the civil power.

The exclusion of every Catholic or clerical element from all public administrations, from pious works, hospitals, and schools, from the councils which govern the destinies of the country, from academical and other unions, from companies, committees, and families, - an exclusion from everything, everywhere, and forever.

Instead, the Masonic influence is to make itself felt in all the circumstances of social life, and to become master and controller of everything. Thus the way will be smoothed towards the abolition of the Papacy; Italy will then be free from its 'implacable and deadly enemy'; and Rome, which was in the past the universal center of theocracy will in the future be the center of universal secularization, from which the Magna Carta of human liberty is to be proclaimed in the face of the whole world.

Such are the authentic declarations, aspirations, and resolutions, of Freemasons or of their assemblies.⁹⁸

⁹⁸ *Dall'alto dell'Apostolico Seggio*, §6: "La loro azione ora è diretta a raggiungere i seguenti scopi, secondo i voti e le risoluzioni tutte ispirate da un odio a morte contro la Chiesa. Abolizione nelle scuole di qualsiasi istruzione religiosa, e fondazione d'istituti, in cui anche la gioventù femminile sia sottratta ad ogni influenza clericale, qualunque essa sia; giacchè lo Stato, che deve essere assolutamente ateo, ha il diritto e il dovere inalienabile di formare il cuore e lo spirito dei cittadini, e nessuna scuola deve essere sottratta nè alla sua ispirazione, nè alla sua vigilanza. Applicazione rigorosa di tutte le leggi in vigore dirette ad assicurare l'indipendenza assoluta della società civile dalla influenza clericali. Osservanza rigorosa delle leggi che sopprimono le corporazioni religiose ed uso di tutti i mezzi per renderle efficaci. Sistemazione di tutto il patrimonio ecclesiastico, partendo dal principio, che la proprietà di

From this we can easily see that the rigid separation of Church and State, the exclusion of the Church from public debate, the removal of the religious aspects of education in favor of secular ideology and the gradual marginalization of those who espouse true Catholic doctrine from any participation in public life is geared inexorably towards the destabilization of the Papacy and its removal as the moral center of global society. It would not be too taxing to draw lines from this admonition to certain contemporary situations.

This rigid exclusion of the Church is not effected initially, or even primarily, by positive legislation but first and preferably by the dissemination of the naturalistic and rationalistic philosophy of Freemasonry which serves to portray the Church as intolerant and exclusive, rather than as a beacon of truth and the minister of the sacraments of salvation. Perhaps Leo's clearest warning regarding the aims and influences of Freemasonry

esso appartiene allo stato e l'amministrazione ai poteri civili. Esclusioe d'ongni elemento cattolico o clricale da tutte le amministrazioni pubbliche (sic), dalle opere pie, dagli spedali, dalle scuole, dai consigli nei quali si preparano it destini della patria, dalle accademie, dai circoli, dalle associazioni, dai comitati, dalle famiglie; esclusione da tutto, dovunque per sempre. Invece l'influenza massonica deve farsi sentire in tutte le circostanze della vita sociale, e divenire padrona e arbitra di tutto. Con questo si spianerà la via all'abolizione del Papato; cosi l'Italia sarà libera dal suo implacabile e mortale nemico, e Roma che fu in passato il centro della Teocrazia universale, sarà nell'avvenire il centro della secolarizzazione universale, d'onde deve essere proclamata in faccia al modo intero la Magna Charta della libertà umana. Sono altrettante dichiarazioni, aspirazioni e risoluzioni autentiche di framassoni o delle loro assemblee.” Italics as in original.

upon Christian society, and the one which has most inarguably come to pass, regards the ever prominent issue of marriage and the family:

What refers to domestic life in the teaching of the Naturalists is almost all contained in the following declarations: That marriage belongs to the genus of commercial contracts, which can rightly be revoked by the will of those who made them, and that the civil rulers of the State have power over the matrimonial bond; that in the education of youth nothing is to be taught in the matter of religion as of certain and fixed opinion; and each one must be left at liberty to follow, when he comes of age, whatever he may prefer.

To these things the Freemasons fully assent; and not only assent but have long endeavored to make them into law and institution. For in many countries, and those nominally Catholic, it is enacted that no marriages shall be considered lawful except those contracted by the civil rite; in other places the law permits divorce; and in others every effort is used to make it lawful as soon as possible. Thus the time is coming quickly when marriages will be turned into simply another kind of contract, that is; into changeable and uncertain unions which fancy may join together and which the same, when changed, may dissolve.⁹⁹

This prescient observation on the future of civil interference in marriage, and its consequent dissemination of a divorce mentality, would be

⁹⁹ *Humanum genus*, §21: "Quod ad convictum attinet domesticum, his fere continetur omnis Naturalistarum disciplina. Matrimonium ad negotiorum contrahendorum pertinere genus: rescindi ad voluntatem eorum, qui contraxerint, iure posse: penes gubernatores rei civilis esse in maritale vinclum potestatem. In educandis liberis nihil de religione praecipitur ex certa destinaque sententia: integrum singulis esto, cum adoleverit aetas, quod maluerint sequi. - Atqui haec ipsa assentiuntur plane Massones: neque assentiuntur solum, sed iamdiu student in morem consuetudinemque deducere. Multis iam in regionibus, iisdemque catholici nominis, constitutum est ut, praeter coniunctas ritu civili, iustae ne habeantur nuptiae: alibi divortia fieri, lege licet: alibi, ut quamprimum liceat, datur opera. Ita ad illud festinat cursus, ut matrimonia in aliam naturam convertantur, hoc est in coniunctiones instabiles et fluxas, quas libido conglutinet, et eadem mutata dissolvat."

among the indications cited during the period of canonical reform following Vatican Council II. They would especially be revisited by Franjo Cardinal Šeper during the important 1981 plenary session of the Commission for the Revision of the Code of Canon Law, when they met to discuss the most pressing questions of the reform process which led to the promulgation of the current Code of Canon Law.

Conclusion

The historical legacy of Freemasonry on the continent of bloody revolution is, as we have seen, at least at times and in places, a real one. This having been observed, it seems a simple statement of the obvious to describe it as a reality which is avowedly against the Church in thought, word and deed. Set against the more radical actions of, say, the *Carbonari*, the activity of a local Lodge in suburban America can appear to be positively harmless. However, the possible cultural distinctions to be drawn between European Freemasonry and Anglo-American Freemasonry were not acknowledged in any of the condemnations of the various pontiffs, who placed as much emphasis and damnation, or even more, on the philosophical tenants of Freemasonry as they did on any actual revolutionary action, nor were the reflected in the eventual language of canon 2335 of the 1917 Code of Canon Law. It should, perhaps, not surprise us that some canonical commentators

questioned the significance of the difference between national Masonic Lodges. Ronny Jenkins articulates the question succinctly:

The various Masonic Lodges themselves differed greatly in their teaching and practices. American Lodges were far less subversive than most European ones. Did Catholics who joined an American Lodge deserve to suffer the same penalty as one who joined a lodge more patently opposed to the Church?¹⁰⁰

In order to answer this question, we must recall the principle characteristic of Masonry according to all its condemnations by successive popes: that Masonry represents a plot against the Church through the spread of religious indifferentism. We may then ask if the Anglo-American Lodges present a less grave threat to the Church and the Faith, or if it is merely a less obvious threat.

¹⁰⁰ Jenkins, 738.

Chapter II

Order in the New World: Masonry in America

Introduction

The ultimate purpose of this work is to consider the historical origins of Freemasonry, its relationship to the Church, and its canonical status as a prohibited society at the universal level. Nevertheless, a continuous theme of canonical commentary on the subject is the relevance of cultural context. This is evident in scholarly work based on the 1917 Code of Canon Law,¹ learned contributions (at the highest level) to the process revising the Code and the eventual drafting of the 1983 Code of Canon Law,² and in the contemporary commentaries on that Code, as it is presently worded.³ While the intention of the Holy See on the subject is clear, certainly regarding the current law,⁴ there has been, and remains, an ongoing discussion in canonical circles about

¹ Charles Augustine, *A Commentary on the of Canon Law*, 8 vols. (London & St Louis: B. Herder, 1924) 8:341.

² Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em. mis Atque Exc. mis Patribus Commissionis ad Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Vatican City: Typis Polyglottis Vaticanis, 1981) 303.

³ John Martin, "Penalties for Particular Offences," in *The Canon Law: Letter and Spirit*, ed. Gerard Sheehy et al. (Collegeville, MN: Liturgical Press, 1995) 792.

⁴ Sacra Congregatio pro Doctrina Fidei, *Declaratio*, AAS 76 (1984) 300.

the relevance of social or national context in the evaluation of Freemasonry and its incompatibility with the Church. The most common distinction drawn is between Freemasonry in Continental Europe and the United States.

The previous chapter presented a survey of the history of Masonry in Europe and outlined, if only briefly, the role Masonic societies played in direct conflict with the hierarchical institution of the Church, both as a spiritual power and a temporal government. This clear history of conflict and aggression is often set against the, apparently, more benign nature of the Lodges of the United States, which have a reputation for being little more than mildly eccentric social clubs.⁵ Far removed from the shifting political sands and conflicts of Continental Europe and absent an establishment role for the Church in the developing American government, Freemasonry in the American Colonies, and later States, would appear to present a much less antagonistic reality than that which we observed on the other side of the Atlantic.

As we have seen, the development of the Church's position on, and prohibition of, Freemasonry during the eighteenth and nineteenth centuries was explicitly universal. But in the light of the American context of a proud national policy of religious tolerance and a general absence of sectarian strife,

⁵ William Whalen, *Christianity and American Freemasonry*, 3rd Edition (San Francisco: Ignatius Press, 1998) 7.

we can see the motivation for asking, as Jenkins does, if, in the light of canonical equity, membership of the American Lodges is really of the same order as those of European Freemasonry and merits the same punishment, especially if the penalty is the strictest which the Church can impose.⁶

Since the American example is often cited as an illustration of Freemasonry at its most respectable and least antagonistic, it is appropriate and necessary to devote suitable space to considering Freemasonry in this context both as part of the consideration of the applicability of a universal prohibition and because Freemasonry in America presents a distinct and sizeable pastoral problem.⁷

This chapter will present an evaluation of the historical development of Freemasonry in America, its organization, and character. It will also engage in a careful examination of Masonic ritual in the United States, at various degrees and levels, as a means of determining the extent to which membership of American Masonry, *sui generis*, is truly incompatible with the Catholic faith, conforms to the description of Masonic societies presented in

⁶ Ronny Jenkins, "Catholic Membership in Freemasonry," *The Jurist* 56 (1996) 738: "The various Masonic Lodges themselves differed greatly in their teaching and practices. American Lodges were far less subversive than most European ones. Did Catholics who joined an American Lodge deserve to suffer the same penalty as one who joined a lodge more patently opposed to the Church?"

⁷ Pastoral Research and Practices Committee Report, "Masonry and Naturalistic Religion," *Origins* Volume 15/6 (27 June 1985) 83.

the papal condemnations, and merits the application of the canonical penalties.

This chapter will also examine American particular law in dealing with Freemasonry and prohibited societies, especially those norms which came from the Baltimore councils, as a means of understanding how the ecclesiastical hierarchy in America viewed the phenomenon of American Masonry.

Architects of a New Nation

It seems that the first Freemason to set foot on American shores was a man named John Skene, a member of the Old Aberdeen Lodge of Scotland, who settled in New Jersey in 1682.⁸ The first Lodges to operate in America were those formed within regiments of the British Army which were stationed in the colonies periodically throughout the seventeenth and eighteenth centuries.⁹ These were composed exclusively of soldiers and were not permanent fixtures in any particular place, rather, they travelled with the regiment of the members. The ruling of the Grand Lodge prohibited people from outside the Army to join a military lodge, the intention being

⁸ Mark Tabbert, *American Freemasons, Three Centuries of Building Communities* (New York: New York University Press, 2006) 33.

⁹ Jasper Ridley, *The Freemasons* (New York: Arcade, 2001) 91.

that this would encourage the erection of fixed local lodges in these places. Nevertheless, the rule seems to have often been waived in practice; and even when it was not, these military lodges played an important role in spreading Freemasonry throughout the Colonies and, especially in one particular instance which shall be discussed later, eventually helping to establish local lodges.¹⁰

Freemasonry formally arrived in America about twelve years after the establishment of the Grand Lodge in 1717 and the first Provincial Grand Master was appointed in 1730 by the Grand Master of the English Grand Lodge; the (Catholic) Duke of Norfolk.¹¹ While there is mutual recognition and fraternity today between governing bodies of American Freemasonry and the Grand Lodge of England, the Masons themselves are demonstratively proud of their role in the American Revolution and the founding of the United States. It is well established that many of the "Founding Fathers" of the United States were prominent members of the Lodge, as Stillson tells us:

It is an acknowledged fact that many of the Fathers who shaped the destiny of the young Republic were equally potent factors in the establishment of Freemasonry, the Institution that has grown to the dignity of the American Rite of that Order.¹²

¹⁰ Ibid.

¹¹ Henry L. Stillson, ed., *History of the Ancient and Honourable Fraternity of Free and Accepted Masons* (Boston: The Fraternity Publishing Company, 1895) 219; Whalen, 18.

¹² Stillson, 197.

Indeed, such is the extent to which the founding of America, as a republic dedicated to the equality of men and enlightened by the philosophy of the time, was considered a Masonic project that inspection of the foundation stone of the American Capitol building will find a Masonic square and Compass engraved into its centre.

The American Lodges were, it seems, necessarily caught up in the Ancient vs Modern schism which divided the Masons of England during the second half of the eighteenth century. Rival Ancient and Modern Lodges were operative in the same states and sometimes the same cities. As revolutionary sentiment grew in the Colonies, these Lodges, already with distinctive Masonic characters, grew to have observable political leanings, with the Ancients of Dermott's reform tending to be in favor of colonial independence and a more radical approach to fraternity both within and without the Lodge, and the Moderns, like their English counterparts, taking a more Establishment stance both on matters of membership and politics.¹³ Indeed, these differences between the Lodges seem to have been typified in two of their better known members.

¹³ Henry Haywood and James Craig, *A History of Freemasonry* (New York: John Day, 1927) 314; Stillson, 226.

Perhaps the two most prominent Masons of the American Revolution were Benjamin Franklin, who served as the Master of the Pennsylvania Grand Lodge, and George Washington, who was Grand Master of the Lodge in Virginia.¹⁴ Franklin viewed the Lodge as an enlightened society where the emerging intellectual class could support and spread their evolving views on fraternity, citizenship and religious toleration (which in his case were essentially deistic) through coordinated civil participation.¹⁵ Washington, meanwhile, came from and embodied a far more paternalistic background, was an enthusiastic slaveowner (hardly compatible with a notion of radical fraternity) and a former British Army officer. His participation in the Lodge, before the Revolution, seems to have been a function of his social status, with membership a privilege of the landowning upper class to be used to maintain the *status quo*.¹⁶

The two factions of Masonry, much like the men themselves, found themselves increasingly drawn and bound together by the circumstances of war and the demands of building a new nation. As the need for independence, and its inevitability, were accepted by more of the colonies, the Lodges

¹⁴ Tabbert, 35; Stillson, 222.

¹⁵ Ridley, 93.

¹⁶ Tabbert, 36; Ridley 94.

followed suit. Franklin's ethos, so influential in drafting the Declaration of Independence, gradually spread across the Masonic as well as political landscape until a union of both was forged in war.¹⁷ Indeed, while the historically accepted figure for the number of Masons among the fifty-five who signed the Declaration of Independence is nine, this rose to thirteen of the thirty-nine who signed the proposed Constitution.

While these figures are usually cited, even by academically neutral sources, with qualifiers like "only" or "just", it seems remarkable that fully one third of those responsible for the foundational document of the American Republic were Freemasons.¹⁸

Following the end of the war, it was decided that the ordering and governance of the Lodges would mirror that of the States. The Grand Lodges of each of the thirteen States formed a union, recognizing each other. It was proposed that there be a General Grand Lodge of the United States, with George Washington as General Grand Master, acting as a sort of Masonic Federal governing body, but this idea failed to achieve the necessary unanimous support and was abandoned.¹⁹

¹⁷ Stillson, 226.

¹⁸ Ridley, 96.

¹⁹ Stillson, 226.

It would be a gross oversimplification to say that the American War of Independence was purely a Masonic project. As has been noted, there were Masons, and Lodges, on both sides when the cause for Independence began to take shape. What can be observed, and stated with confidence, is that over the course of the Revolutionary War, Masonry became a unified and influential force in the founding of the United States.

While key figures in the American pantheon were not Masons, Thomas Jefferson²⁰ and John Adams chief among them, a great many were: George Washington, Benjamin Franklin, John Hancock, Paul Revere, James Madison, James Monroe, John Paul Jones and the Marquis de La Fayette, who would later play an involved role in the French Revolution.²¹ Given the prominence of Masons in the American project, it is unsurprising that Freemasonry enjoyed a healthy public reputation in the years following the Revolution with many new members joining and new lodges being formed.²² To this day, Masonry is considered an uncontroversial part of American cultural imagery; Masonic symbols can be found on the currency and

²⁰ While Jefferson was not a Freemason, he was a deist, as his own writings show. See Whalen, 19.

²¹ See, *inter alia*: Haywood & Craig, 315; W. Eugene Rice, *Masonic Signers of the Declaration* (Silver Spring MD: Masonic Services Association, 1975) 4, cited by Whalen, 19.

²² Lorman Ratner, *Antimasonry, the Crusade and the Party* (New Jersey: Prentice-Hall, 1969) 5.

Washington DC is pockmarked with Masonic monuments and temples. Yet, while Masonry was indeed considered highly respectable in the early years of the American Republic, this was to change suddenly.

The Morgan Excitement and the Antimasonic Movement

Perhaps the most notable event in American Masonic history is what Stillson calls "the Morgan excitement" of 1826.²³ The events surrounding William Morgan's abduction and presumed murder resulted in a spectacular fall from grace in the public consciousness for Freemasonry. Lengthy expositions of the tale can be easily found from all points of view, Masonic, Antimasonic, and neutral. Perhaps the most succinct and dispassionate can be found in McCarthy's treatment of the Antimasonic Party.²⁴

Briefly summarized: William Morgan was, ironically, a stonemason by trade. He was also a Freemason. Like the operative masons of old, he seems to have led an itinerant life beginning in Virginia and stretching up the Atlantic states and into Canada. By 1826 he had landed in Batavia, New York. Having fallen upon hard times, and disaffected with the Lodge, he secured a contract with a local newspaper company to publish a book laying

²³ Stillson, 507.

²⁴ Charles McCarthy, "The Antimasonic Party: A Study of Political Antimasonry in the United States, 1827-1840," *Annual Report of the American Historical Association, 1902*, Vol. I (Washington DC: Government Printing Office, 1903) 365-574.

bare the ritual secrets of Freemasonry. As shall be discussed in detail later, all Masons, European or American, take oaths upon joining the Lodge accepting violent death should they reveal the secret rituals and teachings of Freemasonry. When the pending publication of the book became known, Morgan received threats from local Masons culminating in an arson attack on his publisher and his own abduction.

Morgan was arrested and held by the Masons, who were acting in the various official capacities which they held, in a public jail on charges of an alleged debt, consisting of, literally, a shirt.²⁵ While he was held, Morgan's house was ransacked and his wife assaulted. When the search of his home failed to yield his manuscript, Morgan was released from jail into the custody of two Masons, who were observed forcing him into a carriage as he cried for help, and was taken, under the aegis of the local sheriff (also a Mason), to a disused army fort near the Niagara river, where he was held and interrogated for several days. From there, we have no solid proof of what happened but, depending on which sources one reads, he was either drowned in the river or persuaded to abandon his family and disappear forever. Public opinion at the time, and historical consensus, strongly favors his probable murder.

²⁵ Ridley, 178.

Taken in isolation, it is doubtful that this lone event would have much impacted the reputation of Masonry beyond the local area.

Unfortunately for the Masons, they were to become victims of their own success. The years following the Revolutionary War had been a boom time for the Masonic Lodges; the philosophies of the Enlightenment, espoused by the Founding Fathers and incorporated into the very foundations of the nation, were matters of general consensus. Religious freethinking was considered American national doctrine and (Protestant) organized Church attendance was down as anti-establishment legislation became universal across the remaining states.²⁶ At the same time, the number of prominent Freemasons in politics, something the Masons themselves had previously celebrated, made them a lightning rod for political opposition.

The Morgan affair was sufficiently lurid to capture the public imagination and united the conservative Protestant ministers and the political opponents of President (and Masonic Past Grand Master) Andrew Jackson.²⁷ The resulting Antimasonic movement, which gave birth to a political party of the same name, carried out a national campaign which circulated denunciations of Masonry as anti-democratic, cabalistic and

²⁶ Ratner, 5.

²⁷ Haywood & Craig, 318-319. Ridley, 185-188. Stillson, 513.

violent. European denunciations, including those of the popes, were hastily translated and embellished, reviving the Illuminati connection. Those which warned of violent Masonic insurrection on the Continent were held up as evidence that the Masonic putsch had already been successfully carried out in America.²⁸ Masonic ritual and secrecy was denounced by Protestant ministers as ungodly and demonic. The resulting "persecution", as the Masons saw it, saw a sharp drop in numbers as men, who had joined seeking respectability, deserted, causing many Lodges to close as various State governments and jurisdictions held enquiries into the activities of the local Lodges.²⁹

The Antimasonic Party enjoyed some initial success, electing a Governor of Vermont and launching the careers of William Seward and Charles Sumner, who would be political giants during the Civil War.³⁰ Nevertheless, the movement was short lived as a national phenomenon and did not stop the re-election of Jackson as president, nor the eventual election of two more Masons as president immediately before and after the Civil War, James Buchanan and Andrew Johnson.

²⁸ Ratner, 5-7.

²⁹ Stillson, 529; Haywood & Craig, 318; Ridley, 186.

³⁰ William Preston Vaughn, *The Antimasonic Party in the United States, 1826-1843* (Lexington: University Press of Kentucky, 1983) 18; Ridley, 185-187.

In fact, the Civil War provided a chance for Masons to quietly rehabilitate their reputation. Masons, like many extended families, had members on both sides of the war and were not seen as either particularly pro North or South. In the years following the war, the Lodge provided a neutral space for former antagonists to meet and begin reconciliation; and the only political faction not represented in the Lodge were the Radical Republicans, who were most in favor of harsh treatment of the South and who, led by Charles Sumner, very nearly impeached President Johnson.

In the years following the war, as a number of wounded Masonic veterans or their widows, on both sides, came to rely on the financial support of the local Lodge, Masonry quickly established its reputation as a benevolent fraternity and saw its numbers again increase. So much so that Masonic sources refer to a period of "phenomenal growth" and "a golden age" which continued into the twentieth century.³¹

Modern American Masonry

In the later decades of the nineteenth century and the beginning of the twentieth century, Freemasonry in America more than made up for the ground which it lost during the "persecution" of the Antimasonic years.

³¹ Haywood & Craig, 319; Stillson, 227.

Lodges swelled with new members and new ones were established at such a rate that rather than seeking to grow further, Grand Lodges began to look for ways to limit the new intake.³² A crucial reason for the renewed interest in the Lodge, in addition to its sidestepping of Northern vs Southern tension within its ranks, benevolent endeavors and continued political relevance, was its growing acceptance among Protestant congregations. While conservative ministers in New York and Pennsylvania had played an important role in the Antimasonic movement, in the post Civil War era there were other issues occupying the dour consciences of good American Protestants. Chief among these were race and public morals, on which, they found, they were in agreement with the Masons. The Masons, in turn, saw with alarm the rise of more strident, low church, practice replace the deistic freethinking of the Enlightenment and Revolution and began to actively court ministers.³³

The one of the first points of Freemasonic-Protestant contact forged were the temperance, and later prohibitionist, movements which were the great moral crusades of the time. It was also one in which the Masons were happy to participate.³⁴ This does not appear to be due to any special aversion in Masonic philosophy to alcohol, rather it seems that this was a convenient

³² Haywood & Craig, 319.

³³ Whalen, 21.

³⁴ Ridley, 275.

moral crusade to adopt which would appeal to respectable Americans and to which the Masons themselves had not particular objection.

The end of the nineteenth century saw the emergence of two new demographic groups in the North and South respectively: Catholic immigrants, predominantly Irish but later Italian as well; and freed African-Americans. Catholics were, from the earliest days of the United States, a suspect class. In the eyes of American Freemasonry they carried the double burden of suspicion since their religion was seen as un-American and, by its own teaching, antimasonic. This was not to say that Catholics were always forbidden to join the Lodge, though this was often the case. The opposition of the Catholic Church to the Lodge, and the general cultural aversion of Masons to the unwashed immigrant masses, helped make Masonry in America a much more self-consciously Protestant affair and commit it to checking the Catholic Church from planting too deep of roots into the wider culture.³⁵ It is not the intention of this work to articulate or evaluate claims of a vast, coordinated, Masonic conspiracy against the Church in the United States. Evidence of how a diverse group of people with a common Masonic bond might, or might not, have acted as individuals against the Church's interest simply does not rise to the level of academic credibility. Nevertheless,

³⁵ Lynn Dumenil, *Freemasonry and American Culture, 1880-1930* (Princeton, NJ: Princeton University Press, 1984) 10-14.

it is possible to identify obvious Masonic rhetoric and action against the Church, even in the modern period of the twentieth century.

Dumenil notes a particular hardening of Masonic anti-Catholic rhetoric as the twentieth century began. Catholics were denounced in much the same terms as were used to pillory immigrant communities; they were said to have divided loyalties and to form a separate community which did not have American interests at heart.³⁶ There was also a concerted effort to promote the synonymy of the terms "American", "Protestant" and "Masonic"; to be one was to be, or at least to support, the other two. An example of this can be found in *Masonic Review*:

The only way to defeat the Roman hierarchy is for Protestants to as solidly unite to preserve the American school system, political liberty, and religious freedom as Rome is united to destroy them. Masons everywhere will unite with Protestants for this great and glorious purpose, for Masonry and Protestantism have made America and will unite to preserve it unimpaired to our children. The battle is on which will decide whether the Pope or American citizens will rule America.³⁷

These above issues would form common and enduring themes for Masonic attacks on the Church in the United States as they particularly opposed Catholic schools for removing children from the homogenizing

³⁶ Ibid, 124.

³⁷ *Masonic Review* 4, May 1922 (New York: 1922) 3. Original citation from Dumenil, 125.

influence of state education, and opposed Catholics who stood for public office, as they were of suspect loyalty. This campaign against the Church's right to educate children, and to exclude the Church from having a voice in civil affairs, was explicitly identified and predicted as the ultimate Masonic aim and was condemned by Leo XIII.³⁸ This open hostility to the Church was still in evidence in 1960, when Senator Kennedy was a contender for the presidency. The Grand Master of the Scottish Rite Southern Jurisdiction (which encompasses three quarters of the United States) summarized the views of many in the Lodge when he wrote the following in the Rite's members' magazine:

Whatever bigotry is in evidence in the United States is exhibited solely by the Roman Catholic hierarchy; that the Canon Law of the Roman Church and the directives of the Pope validate the fears of the people that the dual allegiance of American Catholics is a present danger to our free institutions, and lastly that the people in passing upon the qualifications of a Catholic candidate for the Presidency will be guided by their knowledge of history and their great store of plain old-fashioned common sense, and their innate caution not to gamble when their liberties and the national security are at stake.

Among American citizens there should be no question or suspicion of allegiance to any foreign power, but in the case of a Roman Catholic citizen, his Church is the guardian of his conscience and asserts that he must obey its laws and

³⁸ Leo XIII, encyclical letter *Dall'alto dell'Apostolico Seggio* §6, 15 October 1890: ASS 23 (1890-1891) 196.

decrees even if they are in conflict with the Constitution and laws of the United States.³⁹

In 1965, *New Age* magazine carried the following statement of Masonry's continued opposition to the Catholic Church, which it viewed as fundamentally against American principles:

Masonry needs no defense and attacks no one. To paraphrase Thomas Jefferson, Masonry will always fight for freedom of tyranny over the minds of men, be it political or clerical. The Roman Catholic hierarchy represents both; it boldly so states, and we know it.⁴⁰

It seems, therefore, evident that there is not the history of overt violent Masonic insurrection against the hierarchy of the Catholic Church in the United States comparable to that which took place in Continental Europe in the nineteenth century in Spain and on the Italian peninsula. Yet this can be understood as a result of the Church's not enjoying the same, rightful, place as a voice of moral authority and influence within wider sphere of American civil affairs. Instead, the roles appear reversed in the United States, with Masonry enjoying the stronger position of influence and making use of this in an observable rhetorical campaign against the Church in an effort to exclude

³⁹ Luther Smith, *The New Age* (Washington, DC: Supreme Council, 33°, Ancient and Accepted Scottish Rite of Freemasonry of the Southern Jurisdiction, Feb. 1960). This regular publication was renamed the Scottish Rite Journal in 1990. Original quotation in Whalen, 27.

⁴⁰ *New Age* (June 1965). Quoted by Whalen, 24.

it as an institution, and against individual Catholics in order to keep them from playing a full part in American civil life.

Notes on American Masonic Structure and the Higher Degrees

As has been noted, following the Revolutionary War it was decided that the Masonic organization in the United States would mirror the new Republic, with each State having its own Grand Lodge and being responsible for its own territory. While there were initial plans for a national Grand Lodge to act as a supreme governing body, under the leadership of George Washington, this plan was abandoned and it was decided that the necessity of maintaining mutual "recognition of regularity", the Masonic terminology for communion, was sufficient to ensure uniformity on all essential matters of teaching and ritual; so-called Masonic "landmarks".⁴¹ Today, Masonry has sufficiently grown to require subdivisions within states so that now there are some 246 Grand Lodges spread throughout the United States.⁴² The basic building blocks of the territory of these Grand Lodges are the local lodges in which Masons are enrolled in the three basic degrees of Masonry: apprentice, fellow craftsman and master. These are called the "Craft Degrees" and are

⁴¹ Ridley, 267. Stillson, 226.

⁴² Ridley, 268.

recognized and practiced world-wide, both by the Anglo-Saxon Grand Lodges and the Latin Grand Orients. Initiation into these degrees follows a common ritual programme, which will be examined closely later when considering the relatively "far less subversive" nature of American Lodges.⁴³

These first three "Craft" degrees of Masonry form the foundational tier of Masonry, known as Blue Lodge Freemasonry. Most Masons never progress past these first three degrees. Nevertheless, there exist various rites of higher degrees, which Master Masons may elect to pursue. The two largest and most developed of these are the so called Scottish and Yorkish rites. The origins of the Scottish Rite can be traced back to the original schism within English Masonry in the eighteenth century with the founding of the so called "ancient" Grand Lodge by Lawrence Dermott.⁴⁴ The ancients, free from the controls of the original Grand Lodge, began to devise new degrees and rites and join them to the renaissance's fashionable interest in gnosticism,

⁴³ While there are some differences in ritual practice between various lodges, the substance and central content, so called Masonic "Landmarks" remain constant and may be considered as a whole. An excellent guide to the ritual practice of Masonry can be found in John Salza, *Why Catholics Cannot be Masons* (Charlotte: TAN Books, 2011) 7. Salza is a former master of Masonic ritual.

⁴⁴ This is a consensus view of the origins of the Scottish Rite. As with much of Masonic history, there remains some debate, especially regarding the influence of various French programmes of higher degree masonry. For a cross section of accounts see, *inter alia*: Margaret Jacob, *Living the Enlightenment: Freemasonry and Politics in Eighteenth Century Europe* (Oxford: Oxford University Press, 1991) 59-63; Stillson, 556; Haywood & Craig, 291; Whalen, 80; Ridley, 267.

adopting imagery and language of the Rosicrucians and other similar movements. In recognition of the roots of English masonry in fact coming from Scotland, they called their new degrees the Scottish Rite.⁴⁵ When the two rival English lodges were reunited, the higher degrees were retained as an optional extra path, separate but recognised by the Blue Lodges.

Today, the so called Ancient and Accepted Scottish Rite is the largest branch of the higher degrees of Masonry.⁴⁶ The Yorkish Rite⁴⁷ may be categorized as a slightly abbreviated version of the Scottish Rite, with the majority of its ritual and language invoking the medieval Templar order. These higher degrees have, as a basic criteria for entrance, a requirement that a man be first a Master Mason (the third of the three Craft Degrees of the Blue Lodge). They maintain their own headquarters and organize their membership across the territories of the state-wide Grand Lodges.

The Scottish Rite owes its comparably enormous masonic popularity in the United States⁴⁸ to one man; Albert Pike. Pike was a former general in the

⁴⁵ Jacob, 61.

⁴⁶ The prominent Masonic “temple” in north-west Washington DC is the headquarters of the Scottish Rites Southern Jurisdiction for the United States.

⁴⁷ Much as the Scottish Rite was begun in England, the Yorkish Rite is, in fact, American in origin. While both are to be found in the United States, only the Scottish Rite is found in England. See Whalen, 94.

⁴⁸ Scottish Rite membership grew from fewer than 40,000 before Pike's reforms to more than half a million by 1930. See Tabbert, 193.

Confederate Army during the Civil War and devoted student of all things occult and esoteric and he would eventually serve as the Grand Commander of the Scottish Rite's Southern (US) Jurisdiction for thirty years.⁴⁹ His rise to prominence within the Rite came about when, in 1853, the Masonic historian Albert Mackey entrusted him with the task of reviewing and revising the ritual texts of Scottish Rite Freemasonry. Pike embellished the rituals with occult and esoteric symbolism, blending indiscriminately Egyptian, Jewish, and European imagery and religion into an elaborate, if incomprehensible, tapestry.⁵⁰

Pike published a companion piece to his revised ritual, which he titled *Morals and Dogma of the Ancient and Accepted Scottish Rite of Freemasonry*, which, over more than 800 stultifying pages, serves as a philosophical tutorial on the nature and meaning of each of the rituals of the thirty-three degrees of Scottish Rite Freemasonry, including the first three Craft Degrees which candidates will have received in their local Blue Lodge.⁵¹ The Masons themselves are happy to acknowledge this text as a complete "system of

⁴⁹ Whalen, 82; Tabbert, 144.

⁵⁰ Tabbert, 144-146.

⁵¹ Albert Pike, *Morals and Dogma of the Ancient and Accepted Scottish Rite of Freemasonry* (Charleston: Supreme Council of the Thirty-Third Degree for the Southern Jurisdiction of the United States, 1881)

understanding human existence and with a philosophy that urges men to seek harmony and unity with the universe."⁵² This work is considered the standard text of Scottish Rite Freemasonry and, to this day, is distributed to every new initiate.⁵³

Later in this chapter there will be an examination of the Masonic rituals which form the three Craft Degrees as well as some of the higher degrees of the Scottish Rite, Pike is an essential guide for the philosophical content of these rites and of Masonry as a whole.

Prince Hall: African-American Freemasonry

Up until this point we have spoken of Masons, and of men who join Masonic Lodges. We have also made frequent reference to the fundamental Masonic doctrine of radical fraternity which seeks to unite men of all beliefs and social and political backgrounds. Within the context of Freemasonry in the United States, we must add to this principle a crucial caveat: as long as one is not black. Freemasonry was, from the time of its establishment in the United States, and remains today, racially segregated.

⁵² Tabbert, 145.

⁵³ Whalen, 8.

Prince Hall was, depending on which source one consults, either a freed slave or the son of a freed slave, living in Boston at the time of the Revolutionary War. Despite being a property owning citizen who could vote in state elections, he was denied entry by the local lodges who, quite simply, were not so committed to radical fraternity as to admit people with black skin.⁵⁴ As a result of this rejection, Hall, together with fifteen other similarly frustrated aspiring black Masons, applied to and were accepted by Lodge No. 441, a military lodge attached to one of the regiments of the British Army then occupying Boston. Adding to the irony of the rejection of these men by the freedom and equality espousing colonial Masons and their welcome by the occupying army, it was the English Grand Lodge which eventually chartered these men as constituting their own Lodge; African Lodge No. 495. Following Hall's death, the network of African-American Lodges which Lodge No. 495 spawned renamed and organized themselves under his name, calling themselves Prince Hall Lodges.

While these have been, from their inception, recognized by the Grand Lodge of England, they have received no such recognition from the all white Grand Lodges of the United States. Indeed they have been labelled

⁵⁴ Ridley, 266; Whalen, 29.

"irregular", the masonic term for heretical, by the white Lodges which themselves remain, to this day exclusively white.⁵⁵

Nevertheless, while the historic color bar remains in place in American Masonry, today there is increasing "recognition" between the white Grand Lodges and Prince Hall Lodges.⁵⁶ It must also be noted that, while the racial segregation of American Masonry helps us understand something of the enduring character of the Grand Lodges and higher degrees, Prince Hall Freemasonry has been recognized by the English Grand Lodge from its inception; making them no less Masonic in either ritual or philosophy. This is, in fact, asserted by no less a figure than Albert Pike who, despite being a notable racist, said in 1875:

The Prince Hall Lodge was as regular a lodge as any lodge created by competent authority. It had a perfect right to establish other lodges and make itself a Mother Lodge.⁵⁷

That they are the undeniable products of institutional racism among the white Grand Lodges does not vitiate the presence and dissemination of

⁵⁵ The true figure is, according to the most recent data to be found, 99.44% white. There is one lodge, Alpha Lodge No. 116 of New Jersey, which admits black men, to the condemnation of other Lodges. See Whalen, 29.

⁵⁶ Ridley, 266.

⁵⁷ Quotation taken from Whalen, 29. Original citation missing.

deistic and rationalistic philosophies which pose a grave threat to the faith of a Catholic and which were the subject of the various papal condemnations.

Freemasonry and the Ku Klux Klan

The aversion of the Freemasons to the idea of black men joining the Lodge is long established and remains deeply held today.⁵⁸ While Pike may have been prepared to recognize the essentially legitimate Masonic nature of Prince Hall Lodges, this did not mean he was prepared, in any way, to admit blacks to the mainstream Lodge:

I took my obligation to white men, not to negroes.
When I have to accept negroes as brothers or leave Masonry,
I shall leave it.⁵⁹

This institutionalized racism, together with the already noted explicit anti-Catholicism, was instrumental in the formation of another group which was altogether more pronounced and violent in its activities and which is perhaps the greatest cultural touchstone of bigotry and hatred in America; the Ku Klux Klan.

The exact origins of the Klan, like those of Freemasonry or any other secret society, are difficult to establish with absolute certainty. It can be

⁵⁸ See especially: L. J. Williams, *Black Freemasonry and Middle-Class Realities* (Columbia, Missouri: University of Missouri Press, 1980), 98. Original citation: Whalen, 28.

⁵⁹ Quoted from Whalen, 21. Original citation missing.

stated that the Klan arose in the southern United States during the aftermath of the Civil War and was, it seems, primarily intended as an outlet for the violent grievances of former Confederate soldiers and officers. Two in particular are of note: the first Imperial Wizard of the Ku Klux Klan was the brilliant cavalry commander, and Freemason, Colonel Nathan Bedford Forrest. The Chief Justice of the Klan was a former Confederate General named Albert Pike, who assisted in developing the rituals of the Klan and who served in this role at the same time as he was the Sovereign Grand Commander of the Scottish Rite, southern jurisdiction.⁶⁰ While the Klan, in its original iteration, soon died out, or at least shrank to insignificance, after a few years it was revived and saw its greatest popularity in the early part of the twentieth century. The man responsible for this rebirth of the Klan and its ascendancy during the 1920's, William Joseph Simmons, was also a senior and enthusiastic Mason.⁶¹

It is not to be contended that the Klan was a deliberately instituted Masonic offshoot. Indeed there are documentable instances of Masonic Lodges and publications denouncing the Klan, and, seemingly without irony,

⁶⁰ Whalen, 21. Also: David M. Chalmers, *Hooded Americanism, the First Century of the Ku Klux Klan 1865-1965* (New York: Doubleday 1965) 9.

⁶¹ Charles C. Alexander, *The Ku Klux Klan in the Southwest* (Kentucky: University of Kentucky Press, 1965) 108; Kenneth T. Jackson, *The Ku Klux Klan in the City, 1915-1930* (New York: Oxford University Press 1967) 29.

its overt racism, as against the basic Masonic principles of fraternity and equality.⁶² However, as was observed in the first chapter regarding the circumstances which led to the initial transformation of Freemasonry in England from a trade guild to an occult philosophical fraternity,⁶³ Freemasonry can be subject to sudden changes in or by its membership, and it certainly seems that there was no shortage of Masons willing to join or assist the Klan during the early twentieth century.

Many, if not almost all, of the senior hierarchy of the resurgent Klan were Masons.⁶⁴ These would make use of the Masonic network, to which they had access, to recruit new members and establish new circles for the Klan as it spread across the country. Recruiting new Klansmen from among the ranks of the local Lodge was considered both efficient and effective, particularly because Freemasons were usually receptive to a strong anti-Catholic message and an appeal to a warped sense of what constituted true "Americaness" and it seems that this tactic met with great success, even when there were vocal protests by the senior Masons of the area.⁶⁵

⁶² Dumenil, 123.

⁶³ See pages 11-14.

⁶⁴ Whalen, 22.

⁶⁵ Chalmers, 34.

Yet it is also the case that not all Lodges were even nominally against the Klan. Examples can be found of senior Masons meeting Klan recruiters at the train platform and conducting them to the Lodge for the purposes of recruiting new Klansmen.⁶⁶ In Chicago, in 1921, in the face of public protests and resolutions passed by the City government against the Klan, Masons joined the Klan in their hundreds, with five hundred joining in a single meeting, and local Masonic Lodge buildings hosted formal Klan meetings, so that by 1922 Chicago had the largest Klan membership of any city in the United States.⁶⁷ By 1923, Klan claimed to have more than half a million Masons as members.⁶⁸

Perhaps the most illustrative example of open Masonic cooperation with the Klan was in their common championing of a piece of legislation in Oregon in 1922. At the time, it is estimated, half of that state's Freemasons were also Klansmen and so it is not surprising that there was especially close and effective cooperation.⁶⁹ Catholic schools had long been decried by Masons

⁶⁶ This was the case in Denver, an account of which can be found in: Robert Goldberg, "Denver: Queen City of the Colorado Realm," *The Invisible Empire in the West; Towards a New Historical Appraisal of the Ku Klux Klan of the 1920's*, Shawn Lay ed. (Urbana and Chicago, Illinois: University of Illinois Press, 1992) 39.

⁶⁷ Jackson, 94-95.

⁶⁸ Alexander, 94.

⁶⁹ Dumenil, 122.

as a tool of indoctrination and control by the Church hierarchy, which ensnared future generations and prevented them from receiving proper instruction in American (for which we can read "Masonic") values. The Church, in turn, asserted not only the benefit but the necessity and right of the Church to educate her children.⁷⁰

The bill, which was put to a state-wide referendum and which passed, made attendance at public, secular, schools mandatory for all children aged eight through eighteen. The Masons, through a series of public meetings and lectures and newspaper ads aimed at educating the public about the iniquity of Catholic schools and for which the Masons publicly took credit, were instrumental in getting the bill on the ballot. At the same time, publicly Klan-sponsored candidates addressed these meeting and championed the bill.⁷¹ Its success at the ballot box was hailed as a victory by both the Masons and the Klan, and the Scottish Rite began plans for proposing such legislation in other states. This campaign never came to fruition as both the state and federal Supreme Courts ruled the bill to be unconstitutional before it could take effect.

⁷⁰ Whalen, 24-25.

⁷¹ Dunenil, 143.

While the 1920-1930's represented the era of greatest popularity for both the Masons and the Klan, it also marked an era of singular cooperation and cross-membership between the two societies. The Klan would see its popular currency fade, especially following the Second World War and the civil rights movement, and it would never again experience the same kind of coordinated and overt support of the Masonic Lodges. Nevertheless, as we consider the particular social context of Freemasonry in America, we cannot ignore, indeed we must highlight as deeply significant, not only this era of close collaboration between the two societies but also how, through the continued racial segregation of American Freemasonry and its explicit anti-Catholicism, modern American Masonry continues to perpetuate, albeit without resorting to lynching, the worst values of the odious Klan.

Into the Darkness: Masonic Ritual and the Rite of Entered Apprentice

Thus far we have examined the history of Freemasonry as an organization, both globally and in the United States. We have paid particular attention to its origins, how it is structured, and, most particularly, how it has related to and, for good or ill, interacted with wider society and, most especially, with the Church. As we have seen, there have been documentable and public instances in which Freemasonry has acted as a body to oppose the

Church, be this either by violent insurrection in Italy, institutional oppression in France or political attacks in the United States. It would be tempting to condemn Freemasonry out of hand as a society which clearly “machinates” against the Church on the strength of these instances alone, and indeed some may do so with justification. But to assess Freemasonry, and the threat it poses to the Church and to the faith of Catholics who might be ensnared by the Lodge, purely on its external actions is to consider only what Masonry does, rather than what it is. This is problematic in that it allows us to form an incomplete assessment of Freemasonry and one which is highly dependent on the circumstances of time and place.

If, as has been observed, Masonry is increasingly open in its hostility to the institutional Church in proportion to the prominence of the Church in that place, we can, at least hypothetically, conceive the reverse; that there could be a place where the Church had effectively no presence and would, therefore, see effectively no opposition from Masonry. To apply the simple test of “what does Masonry do?” is to consider only a part of the nature of Masonry. Rather, we are told by Leo XIII, we must take the opposite

approach and evaluate Masonry not by the sum total of its external actions and accomplishments, but by its internal ordering and philosophy.⁷²

In the earliest condemnation by Clement XII, Freemasonry was decried for its religious indifferentism and the way in which it suborned a Catholics membership of the Church, the Body of Christ, to that of the Lodge and which separated him from the authority or aid of the proper power of the Church or the State and left him subject only to the Masonic order for his moral formation, which would be perverted by the deistic philosophy of the Lodge.⁷³ Of particular concern were the rituals of the Lodge, including the administration of various gruesome oaths, which were seen to be liturgical in nature and a blasphemous parody of the sacraments of the Church.⁷⁴

Despite the various divisions which have appeared in Freemasonry over the centuries, there are still some common characteristics which bind the Lodges together. These are called "Landmarks" and their mutual

⁷² "Quia Massonicum foedus non tam est ab actis perfectisque rebus, quam a sententiarum summa iudicandum." Leo XIII, encyclical letter *Humanum genus* §11, 20 April 1884: ASS 16 (1884) 420.

⁷³ Clement XII, papal bull *In eminenti apostolatus*, 28 April 1738: *Magnum Bullarium Romanum seu eiusdem continuatio* [MBR] 118 (Luxemburg: Henric-Albert Grosse, 1727-1754) 15:184. Treated in full on pages 15-18 of this work.

⁷⁴ See especially: Benedict XIV, papal bull *Providas romanorum*, 18 May 1751: MBR 18: 214; Pius VI, encyclical letter *Inscrutabile*, 25 December 1775: *Bullarium romani continuatio Summorum Pontificum* [BSP] 19 vols. (Rome: Ex Typographia Reverendae Camerae Apostolicae, 1838-1855) 5: 176-180; Pius VII, apostolic constitution *Ecclesiam Jesu Christo*, 13 September 1821: BSP 15: 446-448. Subject treated at length on pp. 20-25.

recognition is what renders Lodges able to recognise each other as regular. The greatest divide in Freemasonry, between the Grand Orients and the Grand Lodges, arose over the rejection, by the European Lodges, of the Landmarks of the "G" signifying the Grand Architect of the Universe, the deistic, Masonic, notion of God, and the volume of sacred scripture (according to the faith of the Mason) used in various rituals. These Landmarks were removed to permit the admittance of atheists to the Lodge, something which is still, nominally, not permitted in modern Grand Lodge Freemasonry.⁷⁵ In spite of these disagreements, all Lodges, everywhere, operate a basic system of three degrees of Masonic initiation: Entered Apprentice; Fellowcraft; Master Mason. These so-called "Craft Degrees" are in essence the same across all Blue Lodge Masonry (Anglo-American Grand Lodge Freemasonry) and remain still basically intact in the Grand Orients, though without the above mentioned Landmarks pertaining to a basic belief in God.⁷⁶

In order to come to a proper canonical evaluation according to the criteria of Leo XIII, it is essential that we examine the ritual content of Freemasonry. If we are prepared to accept the premise that the major difference between the rites of the Grand Orients and the Grand Lodges is

⁷⁵ See also p. 13.

⁷⁶ Salza, 7.

the basic requirement of a belief in God, and that religious indifferentism is a lesser evil than atheism, then it would seem reasonable to assert that by studying the Grand Lodge rituals for the Craft Degrees we can arrive at a working appreciation for problematic aspects of Masonic ritual which can be used for the canonical assessment of Freemasonry and of the imputability of a Catholic who joins the Lodge.

The first ritual contact a man will have with the Masons is his initiation as an Entered Apprentice. This marks the beginning of his Masonic career and the first of, depending of which, if any, rites of higher degrees he may elect to pursue, between three and thirty-three degrees of Masonry which he may pass through, each with its own highly involved rite of initiation and course of philosophical instruction. A man who wishes to join the Freemasons arrives at the lodge building and is conducted to a waiting area where he is questioned, through a Masonic porter, about his intentions for being there. He is specifically asked to declare, on his honor: that he is there of his own free will and without mental reservation; that he is motivated by a desire for Masonic knowledge; that he will conform to the rules of the Lodge.⁷⁷ It must be noted, with emphasis, that in this first ritual interaction between an aspiring Mason and the Lodge, the man affirms three

⁷⁷ Malcolm Duncan, *Duncan's Masonic Ritual and Monitor* 3rd edition (New York: Crown, 1976) 27-28.

important things: he is sincere in what he is doing; his motivation is to be instructed by the Masons; he will obey the laws of Masonry.

Having given his word and signaled his intentions, the man is ordered to strip to his underwear and remove all other articles he may be wearing, including his wedding ring and crucifix, should he be wearing one. The purpose of this divestiture will be made clear in a moment. He is then instructed to half-dress so that he is wearing underpants, a shirt which is only worn on his right side, one slipper (provided by the Masons) and a sack over his head, called a "hoodwink". Over this is placed a noose round his neck, called a cabletow, and by which he is led, blindfolded, into the Lodge itself. Upon entering, the presiding Master Mason asks who he is and he responds, through the porter, "Mr. X, who has long been in darkness and now seeks to be brought to light." Indeed, this darkness in which the candidate has long been wandering is symbolized by his blindfold, which he will wear for a great part of the ritual. This sign is meant to impress upon him his relative helplessness without a senior Mason there to guide him. As for what this darkness is, it is clearly explained in the *Masonic Bible* which states that:

This darkness is a symbol of ignorance; while light is the symbol of enlightenment and knowledge. It is a principle of Freemasonry that the natural eye cannot perceive of the mysteries of the Order until the heart has embraced the

deep spiritual and mystic meanings of those sublime mysteries.⁷⁸

A survey of Masonic literature and commentary makes clear that to join the Masons is to explicitly renounce the error and ignorance of one's previous life and belief, and a willingness to accept the "truth" which will be offered by Masonic instruction, a truth which will help the aspiring Mason rise above the petty superstitions of his religion.⁷⁹ As was made clear in the first chapter, the great threat of Masonry, according to every pope, is to the faith of Catholics drawn into the lodge. Catholics joining the Masons speak of their entire life and formation in the Church as a time spent wandering in darkness and acknowledge that it is from Masonry, and not the Church, that they shall receive true light. This is explicitly stated by Pike:

Truth, which Masonry calls Light... is not for those who are unworthy or unable to receive it... The Teachers of Christianity are, in general, the most ignorant of the true meaning of that which they teach.⁸⁰

⁷⁸ *Heirloom Masonic Bible*, Master Reference Edition (Wichita: DeVore & Sons, 1988) 39. Quoted by Salza, 20.

⁷⁹ See, *inter alia*: Allen E. Roberts, *The Craft and Its Symbols: Opening the Door to Masonic Symbolism* (Richmond: Macoy, 1974) 13; Albert G. Mackey, *Masonic Ritualist* (New York: Clark & Maynard, 1869) 23 (Both quoted by Salza, Chapter 5); Pike, 63.

⁸⁰ Pike, 105. The quoted work is a collection of essays by the author to accompany the rite of each degree of Blue Lodge and Scottish Rite Freemasonry. The text is considered so authoritative that a copy is presented to every candidate for the Scottish Rite of higher degrees. The quote is taken from the 3^o, that of Master Mason, which is universal to all Masonry.

Following their presentation, blindfolded and partially undressed, with a noose around their neck, a procedure which the Masons themselves consider to be objectionable and degrading,⁸¹ the candidate is then questioned again about his sincerity and motives. They answer again, this time to the assembled Lodge that they come freely and without reservation seeking the light of Masonry, as is illustrated by their outrageous presentation. The candidate is then conducted further into the room until he stops upon feeling a sharp object pressed against his exposed chest. This, he is told, is to forcefully illustrate to him the real threat of torture which would befall him should he ever reveal the secrets of Masonry.⁸² Following this, the "Worshipful Master" of the Lodge prays over the candidate.

It may seem counter intuitive that a society which puts such emphasis on religious indifferentism should have a ritual prayer, but, in fact, this is a common feature of Masonic rites. This initial prayer is as follows:

Vouchsafe Thine aid, Almighty Father of the Universe,
to this our present convention; and grant that this candidate
for Masonry may dedicate and devote his life to Thy service,
and become a true and faithful brother among us! Endue (sic)

⁸¹ While this might seem so outrageous as to suggest it could not possibly be normal practice, in fact Duncan is emphatic that, not only is it normal, it is essential that an aspiring Mason consent to be bound in this manner "as an unmistakable pledge of fidelity." even though "He may not like it. He may object to it. He may think it degrading. But he has no option." Duncan, 28, note 1.

⁸² Duncan, 30.

him a competency of Thy Divine Wisdom, that, by the secrets of our art, he may be better enabled to display the beauties of brotherly love, relief, and truth, to the honor of Thy Holy Name. Amen.⁸³

This prayer establishes a number of important characteristics of Masonic ritual: that prayer and invocation is a central part of Masonic practice; that Masonry contains, and will reveal, secret knowledge which allows the Mason to better know God and live a virtuous life. This point is made again when the candidate is then asked in whom he places his trust, when he replies "In God" he is told his "faith is well founded" and to follow his conductor who takes him, still blindfolded, around the room to a number of different members of the Lodge, who continue to question him on who he is and what he wants, in all cases, the answers are given on his behalf that he "seeks to be brought to the light". Each time he is given an elaborate piece of symbolic Masonic instruction, the meaning of which the candidate will later have to demonstrate.⁸⁴

This elaborate, and obviously uncomfortable, pantomime illustrates the principle that if the candidate wishes to know God he must consent to be led out of his darkness by the Masons. Eventually the candidate is brought, still kneeling, to the altar of the Lodge (the Masons themselves universally

⁸³ Ibid.

⁸⁴ Ibid, 30-33.

refer to it as an altar) and, still blindfolded, is made to kneel. It is then explained to the candidate that, before he may begin to receive the enlightenment of Freemasonry, he must first swear an oath.

The oath, which is administered with the candidate while holding an open Bible with a square and compass laid upon it and with a dull sword blade or hand passed across this throat at the appropriate moment, binds the candidate before God to a willing sentence of having his throat cut should he ever reveal the secrets of Masonry.⁸⁵ Upon finishing the oath, the candidate is asked a final time what he seeks, and when he answers "Light" the hood is finally removed from his head in dramatic fashion. The new Apprentice Mason then has explained to him that these three items on which he has just sworn an oath to God on his own life consist of the three "Great Lights" of Masonry. The Bible, the candidate is told, is the word of God, while the square and compass represent Masonry, which will teach him to rule and circumscribe his conduct in order to live a Masonically virtuous life. The placing of the second two upon the first is not accidental but intended to demonstrate that, from now on, it will be the practice of Masonry which will

⁸⁵ Ibid, 34-35.

allow him to understand the true meaning of his own sacred text, which is now placed over and above his own religious or denominational beliefs.⁸⁶

Pike himself is clear that the fact that it is a Bible being used in the ritual text is merely an acknowledgement that most Masons are Christians (for which we should read "Protestants"), in the case of a Mason of a different faith, a different text should be used, in order to show that Masonry, as a philosophy and body of hidden knowledge, imparts to Masons an understanding of the true nature of God, regardless of the tradition from which they come.⁸⁷

Following the initial instruction of the candidate, as he kneels at the altar, he is presented with his Masonic apron with the following words:

Brother, I now present you with a lambskin, or white apron, which is an emblem of innocence and the badge of a Mason, more ancient than the Golden Fleece or Roman Eagle, and, when worthily worn, more honorable than the Star and Garter, or any other order that can be conferred on you.⁸⁸

Following this, the candidate is invited to deposit some item, anything, with the Lodge as a memento of the occasion. Having previously been stripped of everything he was carrying, including wedding ring and crucifix,

⁸⁶ Arthur Preuss, *A Study in American Freemasonry* 2nd edition (St Louis, Mo.: B. Herder, 1908) 228.

⁸⁷ Pike, 14.

⁸⁸ Duncan, 39.

should he have been wearing either, he is obliged to confess he has nothing. The intention of this, Duncan tells us, is so that the Master Mason can inform him that "You are indeed an object of charity."⁸⁹ Coming to the Masons half-naked, blind, and penniless, the candidate manifests externally, for his own instruction, his internal poverty and blindness and the illumination and new life which Masonry holds out to him:

Having been wandering amid errors and covered over with the pollutions of the outer and profane world, he comes enquiringly to our doors, seeking the new birth, and asking a withdrawal of the veil which conceals divine truth from his uninitiated sight... There is to be, not simply a change for the future, but also an extinction of the past... the chains of error and ignorance which have previously restrained the candidate in moral and intellectual captivity are broken.⁹⁰

The candidate having been given his reminder about how deficient he is, externally as well as internally, he is bidden to go back outside and dress. Upon his return he is the subject of an extensive series of questions about the meaning of the ceremony he has just undergone and the lessons which have just been imparted to him. The dialogue, as detailed in Duncan's ritual handbook, reads, essentially as a Masonic catechism.⁹¹ At the end of this exchange, the new apprentice describes the signs, or symbols, of this degree:

⁸⁹ Ibid, 40.

⁹⁰ Mackey, 23. Quoted by Salza, 21-22.

⁹¹ Duncan, 50-57.

a rough, uncut stone; a smoothly squared masonry stone; a stone mason's gavel; a ruler. These, he informs the Master, symbolize, in order: the disordered nature of human society; the eventual order which Masonry will bring to it; the tools which will, symbolically, guide his way of life and knock off his own rough edges to allow him to assist in the work of the Lodge.⁹²

This being a work of historical-canonical assessment, and not a theological treatise, it would not be opportune to discuss at any length the decidedly Gnostic tone of this initial ritual, with all its talk of darkness and light and hidden knowledge. Nor would it be suitable to draw too detailed a comparison between this initial rite and the liturgy of baptism, including the presentation of a white garment symbolising innocence. It suffices to say that these are grave and obvious problems for any Catholic who might, somehow, get as far as presenting himself at the Lodge door in his under-drawers. It would be fair to say that it certainly seems as though this initial Masonic ritual merits the charge of Pius VII that they substitute their own sacrilegious rituals for the sacraments.⁹³

⁹² Ibid.

⁹³ *Ecclesiam*, §5: “ut Jesu Christi passionem per nefarias quasdam suas caeremonias profanent ac polluant; ut Ecclesiae sacramenta (quibus nova alia a se per summum scelus inventa substituere videntur) et ipsa religionis catholicae mysteria contemnant.”

Mastering the Craft: the Third Degree and Higher Rites

The third Craft Degree of the Blue Lodge Masonry, that of Master Mason, is, for many Masons, the furthest they will progress. All of the Grand Lodges of the United States, and of England as well, are firm in stressing that to progress to be a Master Mason is in itself a perfectly sufficient Masonic career. The rite of the third degree is considered, even by the practitioners of the higher degrees, to be the most important, even if the full meaning of what the candidate undergoes is not yet clear to him at the time. The full rite, together with notes on the preparation of the candidate, as well as transcripts of the questions and answers to be given and received during the rite, can be found in Duncan's Ritual.⁹⁴

The candidate is once more presented to the Lodge in his underpants, blindfolded and bound (by the waist this time, rather than the neck) and he is once more asked to swear that he presents himself for further/final Masonic instruction of his own free will and motivated by a desire for the wisdom offered by Masonry and without mental reservation. He further renews his vows of secrecy and adds layers to his obedience to the Lodge and its laws as well as his obligations to assist his brother Masons. These vows are sealed by a promised penalty of being sawn in half and having the candidates bowels

⁹⁴ Duncan, 87-149.

reduced to ashes. Having once again sworn on a Bible (or other suitable religious text) to receive, abide by and preserve the secrecy of Masonic knowledge before receiving it, the candidate is then put through an elaborate pantomime of the murder of the apocryphal character of Hiram Abif, the supposed architect of King Solomon's Temple, by those who wished to gain the secrets of Masonry. The character, still blindfolded, is cast in the titular part and, following his own "murder", he is ritually buried in a coffin before being "raised" by the Worshipful Master of the Lodge by means of the "Masonic word". The candidate, having now figuratively died and been raised as a new man, a Master Mason, is embraced and given further Masonic instruction. Pike explains, in his essay on the rite of the Third Degree, that a Master Mason's function is to play a full part in the guiding influence of Masonry upon mankind as it moves from tyranny to freedom. Tyranny, according to Pike, takes many forms and can be found in the obvious despotic governments of the world. The worst tyranny of all, of course, is that of the Catholic Church which has wrought terror across the several continents and to whom it is the divinely mandated role of Masonry generally, and each Mason individually, to dole out just punishment:

The thirst for power is never satisfied. It is insatiable... The Church of Rome claimed despotism over the soul, and over the whole life from the cradle to the grave. It gave and sold absolutions for past and future sins. It claimed to be infallible in matters of faith. It decimated Europe to purge it of heretics. It decimated America to convert the Mexicans and Peruvians.

It gave and took away thrones; and by excommunication and interdict closed the gates of Paradise against Nations...To seek to subjugate the will of others and take the soul captive, because it is the exercise of the highest power, seems to be the highest object of human ambition. It is at the bottom of all proselytising and propagandism from that of Mesmer to that of the Church of Rome... And if it be not in human nature not take revenge by way of punishment, let the Mason truly consider that in doing so he is God's agent.⁹⁵

The function of Masonry is to slowly lead men away from the false lights of religious practice and towards an understanding of the true nature of God, which only Masonry has.⁹⁶

It might seem, to the uninitiated, that secrecy and at times impenetrably obscure allegory are curious methods for the dissemination of the knowledge of the true nature of God, since that appears to be Masonry's mission. Universal instruction is not, however, the goal of Masonry. Rather, like all gnostic schools, Masonry purports to have a hidden deposit of knowledge which it does not choose to share with the world but reserves for the select few of its own initiates who, armed with this special knowledge, form a privileged section of humanity. The rest, even those initiated into the lower levels of Masonry itself, are to be misled, deliberately, and given false explanations and misinterpretations of their teaching and symbols,

⁹⁵ Pike, 75-76.

⁹⁶ Ibid., 77-80.

something easily achieved if the majority of Masonic "knowledge" is passed on only allegorically.⁹⁷ The most relevant example of this willful use of misinformation by the Masons, even against their own, is the manner in which Masonry in America has been presented as a Christian society, which bans atheists and even reserves some of the higher degrees exclusively to Christians. The intention of the Lodge is to assure the Christian that his faith is not subverted, as the various popes have warned, among the Masons but respected. The Bible, as we have seen, plays an important part in the ritual life of a (Christian) Mason, though Pike is clear that it, as a sacred text, has no particular Masonic value.⁹⁸ Similarly, obvious and important Christian imagery and symbolism is deliberately appropriated and used to decorate Masonic Lodges with the aim of making the Christian initiate feel more comfortable until he is gradually initiated into the "true" Masonic meaning.

A clear example of the blasphemous reinterpretation of Christian imagery is the use in the Lodge of the acrostic INRI. To every Christian this is obviously and exclusively a shorthand rendering of Pilate's notice which

⁹⁷ Ibid., 105: "Masonry, like all the Religions, all the Mysteries, Hermeticism, and Alchemy, conceals its secrets from all except the Adepts and Sages, or the Elect, and uses false explanations and misinterpretations of its symbols to mislead those who deserve to be misled."

⁹⁸ See note 86.

hung on the cross of Christ, titling him *Iesus Nazarenius Rex Iudeorum*. This, together with the cross, form important parts of Masonic ritual symbolism and the unassuming and uninitiated Christian is meant to be put at his ease by them. As he progresses through the Masonic ranks and has more of the hidden "wisdom" of Masonry imparted to him, he is taught to abandon this flat and superficial understanding and instead to see the cross not as the sign of the death and resurrection of Jesus Christ for the salvation of man but as the ultimate sign of panreligionistic deism.⁹⁹ The advancing Mason is taught to read the inscription INRI not as the title of Christ but as a shorthand for different levels of Masonic teaching; first as the four elements, written in Hebrew but transposed into roman characters: *Iammim Nour Rouach Iebeschah*. This is meant to underscore the basic understanding of nature as knowledge of God. Later, Masons are taught to contemplate the phrases *Ignem nitrum roris invenitur* and, eventually, *Iustum necare reges impios* as illustrations of the Masonic mission to free humanity from moral tyranny and

⁹⁹ Pike, 278: "The Cross has been a sacred symbol from the earliest antiquity. It is found upon all the enduring monuments of the world, in Egypt, in Assyria, in Hindostan, in Persia, and on the Boudhist towers of Ireland. Boudda was said to have died upon it. The Druids cut an oak into its shape and held it sacred, and built their temples in that form. Pointing to the four quarters of the world, it is the symbol of universal nature. It was on a cruciform tree that Krishna was said to have expired, pierced with arrows. It was revered in Mexico." Original citation from Preuss, 48.

to order the world towards a proper understanding of God.¹⁰⁰ For those who do not progress far enough in Masonry to be instructed in these hidden meaning, or who cling with obstinacy to a flat purely Christian understanding Pike is clear: "If you wish to interpret the symbols otherwise, you may do so. Masonry is tolerant of your ignorance."¹⁰¹

Indeed, while the higher degrees of the Scottish and Yorkish Rites are optional and not pursued by all Masons, they hold out the promise of a fuller revelation of Masonic "truths" and knowledge and, within their own texts, acknowledge that the initial three Craft Degrees are deficient and even deliberately false.¹⁰² Within the rites and texts of these higher degrees we find ever more explicit naturalism and equivalency between religions. This is so explicitly blasphemous that the name of God is said to be of equal value to that of Baal.¹⁰³ As Whalen notes, Pike's work may be seen as the embodiment of Scottish Rite Freemasonry and can be accurately described as both occultist and pagan.¹⁰⁴

¹⁰⁰ Pruess, 50.

¹⁰¹ Pike, 254. Quoted by Preuss, 53.

¹⁰² Ibid., 777: "The Blue Degrees are but the outer court of the portico of the Temple. Part of the symbols are displayed there to the initiate, but he is intentionally misled by false interpretations... Their true explication is reserved for the Adepts, the Princes of Masonry... in the higher Degrees."

¹⁰³ Ibid., 217.

¹⁰⁴ Whalen, 82.

A thorough analysis of the various, explicitly blasphemous, aspects of Masonic ritual easily merit their own separate theological treatment. Limiting ourselves to the immediate matter, concerning the nature of Masonry as a *machinatio* against the Church and the extent to which this might be mitigated by cultural context, we may examine one rite in particular: the rite of the 30° of the Grand Elect Knight Kadosh in the Scottish Rite. In the course of the rite, the candidate is presented with a table dressed with three skulls, one of which wears a papal tiara. As the Grand Master stabs the skull with a dagger, the candidate repeats "Down with imposture, Down with crime!"

If this may be considered sufficiently vague as to still admit room for some to question the orientation of Masonry against the Church, later in the ritual, the Grand Master points to the tiara and says:

This represents the tiara of the cruel and cowardly Pontiff who sacrificed to his ambition the illustrious order of the Knights Templar of whom we are the true successors. A crown of gold and precious stones ill befits the humble head of one who pretends to be the successor, the Vicar, of Jesus of Nazareth. It is therefore the crown of an imposter and it is in the name of Him who said "Neither be ye called masters" that we trample it under our feet.¹⁰⁵

¹⁰⁵ Quoted by Whalen, 92.

The candidate is then invited to trample it under foot while again denouncing the pope as an imposter. In his commentary on this ritual, Pike states that "Thus the order of the Knights of our Temple is at its very origin devoted to the cause of opposition to the tiara of Rome."¹⁰⁶ and goes on to reassert that the ignorance of some members of the Blue Lodges of this true and proper orientation of Masonry is intentional, reserving true understanding of, and participation in, the Masonic rites to the higher degrees.

Freemasonry & the Baltimore Councils

While it is a feature of modern canonical commentary to take as a fact that American Freemasonry is, in some way, more benign than in other places and to question if it rises to the same level of blameworthiness, we should note that it was not always so. The Councils of Baltimore, which did so much to shape the Catholic Church's approach to American society, were neither ignorant of, nor silent upon, the questions of prohibited societies generally and Freemasonry in particular.

¹⁰⁶ Pike, 776.

As Quigley notes, the Second Plenary Council of Baltimore considered the question of prohibited societies generally and of Freemasonry in particular.¹⁰⁷ Reviewed in the sessions of the Council were the condemnations of Clement XII, Benedict XIV, Pius VII, Leo XII, Pius VIII, and the then reigning Pius IX. It was decided that a decree of the fourth Provincial Council of Baltimore should be included in the acts and decrees of the Plenary Council. It stated that the various popes had banned the faithful from joining such societies, and from swearing oaths to protect their secrets, for the gravest of reasons. The Council specifically recognised that the administration of oaths was used to bind those joining to secrecy before they could come to suspect the evil and danger to which they were being exposed. Priests are advised not to administer absolution until the Catholic has left the society. All the faithful are urged to turn aside from such societies.

What is interesting to note is that the Council urges the faithful to turn aside from secret societies and to think of themselves as members of the body of Christ, and of the Church as their mother, identifying the central threat of Masonry to the faith of a Catholic, that

¹⁰⁷ Joseph Quigley, *Condemned Societies*, Canon Law Studies 46 (Washington DC: Catholic University of America, 1927) 40-43.

it undermines this very understanding of Christian identity and suborns it to Masonic membership.¹⁰⁸

Also discussed at the Council was the text of a letter from Bishop Kendrick, then of Philadelphia and later of Baltimore, sent in 1846, and the response he received from the Holy Office.¹⁰⁹ Kendrick had asked for clarification on the status of secret societies which denied they plotted against the Church or State but still bound their members to secrecy by oath. The response informed him that such societies were to be considered included in the papal prohibitions because of their occult nature.¹¹⁰ This had occasioned further confusion since it was widely understood that secrecy, while damnable, was a secondary characteristic and it was the *machinatio*, of being or acting, against the Church or State, which caused a society to fall under the prohibition.

¹⁰⁸ *Concilii Plenaria Baltimore II Acta et Decreta*, Title XII no. 511-523 (Baltimore: 1868): “Propter gravissimas rationes vetuerunt SS, Pontifices ne fideles secretas societates quovis nomine nuncupatas ineant, iureiurando sese adstringentes ad arcana servanda. Nam foedera huiusmodi clanculum inita, mali suspicionem et periculum prae se ferunt, et iusiurandum temere adhibetur. Idcirco monemus Sacerdotes omnes neminem posse absolutione sacramentali donari, nisi ab huiusmodi societatibus prorsus recedat. Hortamur autem, et in Domino absecremus fideles omnes ut occulta illa foedera monino declinent, mente revolventes se Christi membra esse, et Ecclesiae quae mater nostra est mandatis teneri, eosque ut filios lucis debere ambulare, iuxta sanctissima illa documenta quae Christus Dominus tradidit.” Quoted by Quigley, 41.

¹⁰⁹ Both: Ibid, Appendix XXVIII.

¹¹⁰ Quigley, 24-25.

The point of the discussion was to determine not if Masonic Lodges might be permissible, but if Labor Unions were to be included in the prohibitions. It was decided that key to settling the matter was to take the texts of the various papal prohibitions together as a body and to understand them in their context. This meant that while the protestation of innocence by a particular society should not be considered demonstrative, it was clear that Catholics who joined societies which were merely secret did not necessarily incur the excommunication, though the society remained prohibited. In cases where there might be any doubt, it was resolved that no local determination was possible and that recourse be made to the Holy See as often as was necessary.¹¹¹ The publication, in 1869, of Pius IX's constitution *Apostolicae Sedis* helped to clarify matters.¹¹² The third Plenary Council of Baltimore reiterated the provisions of the constitution and the explicit inclusion of all Masonic societies and noted that societies *eiusdem generis* could well seem to differ from Masonry in rite, ritual, form, or origin.¹¹³

¹¹¹ Quigely, 41.

¹¹² Pius IX, apostolic constitution *Apostolicae sedis moderationi*, 12 October 1869: *Acta Sancta Sedis* [ASS] 5 (1869) 305-331.

¹¹³ *Concilii Plenariae Baltimore III Acta et Decreta*, Title VIII, cap. iii, art. 1, no. 244-255 (Baltimore: 1886). Quigley, 43.

Conclusion

We have seen that Freemasonry arrived, as an organized and institutional force, in the United States before the Catholic Church. As a result, there has been a reversal of the dynamic which existed between the two in continental Europe, where the Church was the institutional power which opposed the insurgent influence of Masonry. As a result of Masonry's historical and foundational role in American civil society it has never needed to resort to the tactics of violent insurrection and opposition to the Church which were employed in the Papal States and Spain. Rather, it has been consistent and documentable in its cultural, rhetorical, and political opposition to the Church, its teaching and its presence as a voice in civil society.

Masonry in the United States also has the peculiar trait of being an historically racist society and intimately bound up with the origins and historical successes of the Ku Klux Klan. To this day, American Freemasonry is a racially segregated society.

Regarding its internal practices, it has been shown that participation in even the first and most basic Masonic rite of initiation is to participate in a pseudo-sacramental ritual in which a Catholic swears secrecy and obedience upon a Bible. He also affirms, on multiple

occasions, that his pre-Masonic life is a time spent wandering in darkness and that he has approached Freemasonry, possessed of sincere intentions and of his own free will, to receive the philosophical light which only Masonry can give and has it expressly told him, through signs and words, that his own religious beliefs, these being the faith of the Catholic Church, are equal to all the other religions of the world. What is more, its essential parity with all other religions is in its deficiency in, and lack of access to, the knowledge of the true nature of God, which Masonry alone possesses. Examination of fundamental Masonic texts and authors makes explicit that the Catholic Church is opposed not only as a civil institution but as a spiritually tyrannical body against which Masonry is implacably, and from its very origins, opposed. Masonic sources also contain deeply problematic, gnostic strains of thought and propose pantheistic and blasphemous interpretations of Christian symbols. The American hierarchy, through the Councils of Baltimore, has expressly condemned Masonry in America and, in communion with the Holy See, made explicit that it is covered by the various condemnations of the popes.

In the light of all of this, it can be confidently asserted that, while historical and cultural context does render Masonry in the United States a distinct phenomenon, this in no way renders it less of a danger

to the faith of a Catholic who might join, nor less objectionable and damnable in its beliefs, practices or actions. Masonry in the United States is absolutely opposed, in thought, word and deed, to the Church and can be said to constitute a plot, or *machinatio*, against the Church, both in the nuanced canonical understanding of the word and in its plainest text meaning.

Chapter III

Masonic Membership Under the Pio-Benedictine Code of Canon Law

Introduction

The issue of condemned societies, including but not limited to Freemasonry, remained a significant concern at the time of the promulgation of the first Code of Canon Law in 1917.¹ As was referenced at the end of the previous chapter, the wider social and economic circumstances, both in Europe and the United States, resulted in questions being raised about all kinds of new organisations, for example, the acceptability of a Catholic joining a labor union. At the same time, to combat the heresies of modernism, the Church, led by the Popes, increasingly recognized and encouraged the phenomena of Catholic organisations, associations and fraternal groups as both an intrinsic good and a cultural counterweight to those societies which remained condemned. The 1917 Code, therefore, provided an holistic approach to societies; good and bad.

¹ *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus* (Rome: Typis Polyglottis Vaticanis, 1917).

The 1917 Code contained various canons which directly or indirectly dealt with Masonry.² It maintained the explicit prohibition of membership in canon 2335, and it continued the provision of special penalties for clerics in canon 2336.³ As shall be discussed, the wording of canon 2335 and its proper interpretation not only expressly forbid Catholics from joining the Freemasons but use the Masonic Lodges as a canonical archetype of the sort of society to which the provisions of the Code should also be applied.

For the purposes of canonical context, this chapter will examine the general treatment of societies under the 1917 Code, both those which are approved and those which are condemned. Condemned societies as a broad heading will be unpacked within the context of the Code, and particular attention will be paid to the way in which different societies which were condemned can be properly understood as similar to Masonry in the qualities which merit condemnation. This will provide an important tool for understanding the canonical language of what would become canon 1374 in the 1983 Code of Canon Law. Key among those other societies to be examined will be the Communist Party, which was itself subject to canonical prohibition but was not explicitly mentioned within the Code as Masonry

² See: cc. 2336; 1240, §1, 1°; 1065; 542; 684; 693 §1; 1453 §1.

³ c. 2335, *CIC* 1917: “Nomen dantes sectae massonicae aliisve eiusdem generis associationibus quae contra Ecclesiam vel legitimas civiles potestates machinantur, contrahunt ipso facto excommunicationem Sedi Apostolicae simpliciter reservatam.”

was. This chapter will also examine some of the individual instances in which the strict prohibition of Catholic membership of the Masons was relaxed, why this was permitted and what were the conditions for the relaxation.

Associations in General in the 1917 Code

Before one can consider Freemasonry as a canonically proscribed society, we must first come to some understanding of the Church's mind regarding associations and societies generally, both good and bad. Societies, as we shall see, are not *per se* a bad thing but rather derive their positive or negative character from their purpose, means, ideals and relationship to the wider world, and especially to the Church.

It is not good, we are told, for man to be alone. Since the creation narrative of Genesis, it is acknowledged that man is a social animal. The desire of man to associate with others like himself for the purposes of mutual support, aid in the pursuit of common goals, and for the good of fellowship, is natural. Such a desire is a positive good when the society of men is ordered to the support and pursuit not merely of secular goals but spiritual ones as well. Societies which sustain and promote the faith are a laudable support for the life of the Christian. Leo XIII was especially vocal in his support of various associations of this kind, in particular the Third Order of St Francis.⁴ It is

⁴ Leo XIII, apostolic constitution *Misericors dei filius*, 23 June 1883: *Acta Santa Sedis* [ASS] 15 (1883) 513-520.

possible for the laity to found associations for themselves, even with the practice of the faith as a secondary aim or characteristic, for the purpose either of a specific work or for fraternity. The Church can erect such societies, commend them to the faithful, or in some cases merely tolerate societies in which there is no proper benefit to the faith but neither an inherent danger. Alternatively the Church may disapprove of an association, or in some cases positively condemn it.⁵ Concerning associations in general, the 1917 Code of Canon Law provides that:

The faithful are worthy of praise who give their names [join] to associations erected, or at least commended, by the Church; they are however to be cautious of secret associations, or those which are condemned, seditious, or suspect, or those which distance themselves from the legitimate oversight of the Church.⁶

The 1917 Code recognizes those associations of which the Church approves, being either erected or commended by her, as falling under three headings: secular tertiaries, confraternities, and pious unions.⁷ Associations, as understood and approved of by the Church, are ordered for particular

⁵ See: T. Bouscaren & A. Ellis, *Canon Law A Text and Commentary* (Milwaukee: Bruce Publishing, 1951) 346-7. Charles Augustine, *A Commentary on the New Code of Canon Law*, 8 vols. (London & St Louis: B. Herder, 1924) 3:425-6.

⁶ c. 684, *CIC* 1917: “Fideles laude digni sunt, si sua dent nomina associationibus ab Ecclesia erectis vel saltem commendatis; caveant autem ab associationibus secretis, damnatis, seditiosis, suspectis aut quae studeant sese a legitima Ecclesiae vigilantia subducere.”

⁷ Canon 700, *CIC* 1917: “Triplex distinguitur in Ecclesia associationum species: tertii Ordines saeculares, confraternitates, piae uniones.”

purposes and towards particular goods. They are established either: to assist members in the promotion of a more perfect Christian life (as the Third Orders do); to encourage works of piety and charity (as confraternities often will); or to promote public worship (such as societies of ecclesiastical music).⁸ Those societies against which the faithful are cautioned are those which meet the description, given by canon 684, of being either secret, condemned, seditious, suspect, or beyond legitimate ecclesiastical oversight.

A condemned society is one in which the Church forbids membership or which she declares illicit. Such a society might be condemned either by name, as is the case here with Freemasonry, or implicitly as would be the case for those societies which are not identified by a listed name but meet the criteria given for a general condemnation. The condemnation may have a canonical penalty attached or not. Membership of those societies for whom a juridic penalty is not attached should still be considered sinful, usually gravely so. Quigley states that, for practical purposes, condemned societies under the 1917 Code can be divided according to their nature, according to the manner of their condemnation, or according to the sanction attached to their condemnation.⁹

⁸ Canon 685, *CIC* 1917.

⁹ Joseph Quigley, *Condemned Societies*, Canon Law Studies 46 (Washington DC: Catholic University of America, 1927) 7.

Quigley suggests that societies by their nature can be categorized as either: anti-social, secret, Bible, cremation, and theosophical societies.

Anti-social societies are what canon 684 calls “seditious”, those which conspire against legitimate authority; either the Church, the State, or both. Examples of seditious societies would be radical Socialists, Anarchists, Communists, or Nihilists.¹⁰ The term “secret society” is not one loaded with special canonical subtext and can generally be taken to mean any society with oaths and rites of secrecy pertaining to their constitutions, purposes, or means of working. While an oath of secrecy is to be expected, it often extends to a demand for blind obedience as well.¹¹ Augustine considers “secret” societies or associations to be, principally, a reference to Freemasonry.¹² While the Masons are secret, and secrecy in a society is bad, it is not, however, principally for their secrecy that the Masons are condemned, but for their religious indifferentism, which Augustine concedes.¹³ It should be expected that there be a great degree of overlap between seditious and secret societies; since effective sedition demands secrecy and societies which are not in some way seditious have little need to be secret. Nevertheless, the two are distinct.

¹⁰ Augustine, 3:428.

¹¹ Ibid, 8.

¹² Augustine, 3:427.

¹³ Ibid.

Bible and cremation societies are fairly accessible headings. In the case of the former, they refer to those groups which distribute, either free or at a discount, vernacular Bibles which are published without note or commentary and usually omitting the Deutero-Canonical books. Their object is in furtherance of the Protestant doctrine of private judgement and interpretation of the Scriptures and, in the context of the 1917 Code, represent a rejection of the Church's magisterial authority over the interpretation of the Word of God.¹⁴ It was their efforts which were first condemned as a “plot” against the Church.¹⁵ Cremation societies, to the modern mind, are something of an anachronism at a time when cremation is, lamentably, widely practiced, even among Catholics. In the early twentieth century they promoted the practice among the public, touting its supposed benefits over Christian burial, and maintained crematoria. Theosophical societies, another relative anachronism, are both religious sects and secret societies.¹⁶ They encouraged the study of comparative religion, philosophy, science, and the occult, with a view to forming a “Universal Brotherhood of Humanity.”¹⁷

¹⁴ Quigley, 9.

¹⁵ Pius VIII, encyclical letter *Traditi humilitati*, 24 May 1829: *BSP* 18: 17-20, §5.

¹⁶ *Ibid.*

¹⁷ Arthur Preuss, *A Dictionary of Secret and Other Societies* (St.Louis: Herder Book Co., 1924) 303. Original citation: Quigley, 9.

A society is condemned either by name, as has repeatedly been the case with Freemasonry, or under a more general heading, for example by falling under the *eiusdem generis* provision, which was discussed earlier and which will be discussed again in this present chapter.¹⁸ A society is condemned either under censure, that is with a penalty attached, or without one. In the case of a society being condemned without a censure it is still *sub gravi*, that is, Catholics who join them commit mortal sin.¹⁹

Penal Law in the 1917 Code

Penal law, which is the subject of Book V of the 1917 Code of Canon Law, is the law of crime and punishment. It presupposes that, in the exercise of free will, man will elect, at times, to do that which he should not, and that the Church has the right and the duty to admonish and correct this behaviour, both to preserve her own proper dignity and internal order and, more importantly, for the good of the soul of the criminal.

Book V is divided into three sections, which together treat penal law systematically. Part I concerns the nature of delicts or crimes, the concept of imputability, mitigating circumstances, and attempted crimes. Part II treats penalties; their kind, nature and application, those who can impose them and

¹⁸ See chapter 1, "Towards the 1917 Code."

¹⁹ S. C. S. Off., *Instruction* 19 May, 1886 in: Pietro Gasparri, *Codicis iuris canonici fontes*, 9 vols. (Rome: Typis Polyglottis Vaticanis, 1923-1939) 4:428, 1100.

those subject to them, censures in general and specific, vindictive penalties, and penal remedies. Part III provides particular penalties for specific individual delicts.

Anatomy of a Delict in the 1917 Code

In Part I, canons 2195-2198 treat the nature of crime. Succinctly put, a crime, canonically speaking, is an external and morally imputable act of breaking the law to which a sanction, even an indeterminate one, is joined.²⁰ The act must be external since the commission of a delict involves a violation of the law which itself functions to preserve the social order, its violation therefore involves some disturbance of that order.²¹ This external manifestation need not, necessarily, be by a positive action but could just as easily be through passive inaction or omission, negligent inattention, or even, in some circumstances, simply by keeping silent. It is possible that one can commit an offence internally, with no external communication of this inward disposition, and this offence may be proscribed by Book V of the Code, but, while this internal disposition may be sinful, it is not a delict until it becomes externally manifested.

²⁰ Canon 2195 §1: “Nomine deliti, iure ecclesiastico, intelligitur externa et moraliter imputabilis violatio cui addita sit sanctio canonica saltem indeterminata.”

²¹ Bouscaren, 857.

It is, of course, necessary to state plainly that it is perfectly possible to sin without committing a delict. For example, one might obstinately refuse to believe a particular article of the faith, amounting to heresy. If one keeps this denial or doubt completely internal it is still a sin but it does not become the delict of heresy until it is in some way manifested and can affect the social order.

Moral imputability, that a person acted (even through inaction) with either *dolos* or *culpa*, that is; either with malicious intention or culpable negligence or ignorance, is essential. While not every sin is a crime, every crime is a sin and requires both knowledge and the exercise of the will for its true commission.²² The extent to which one acted maliciously, or with imputable ignorance or negligence, together with the gravity of the law, determines the quality (kind) and quantity (gravity) of the delict,²³ and, where the fact of the external violation of the law is certain, the culpability of the one who has placed the act is presumed by the law itself until the contrary is proven.²⁴ This culpability may be mitigated, either completely or in part, and demonstrated by a number of factors. Causes which entirely remove imputability would include: lack of the use of reason; drunkenness or

²² Augustine, 8:11.

²³ Canon 2196.

²⁴ Canon 2200 §2: "Posita externa legis violatione, dolus in foro externo praesumitur, donec contrarium probetur."

intoxication, providing that it was involuntary and deprived totally of the use of reason; ignorance of the law itself, not merely of the penalty, if inculpable; accidental commission of the delict, if unforeseen and unavoidable; overpowering force or grave fear; self-defence; uncontrollable passion, if it entirely alienates the will.²⁵ Many of these same factors also act as mitigating, rather than totally excusing, circumstances in the determination of imputability and may lessen the quantity of a delict.²⁶ Conversely, some factors, such as passion deliberately excited or repeat offending, can act as circumstances which increase culpability and can raise the gravity of a delict.²⁷

The final criterion for a delict is that there must be a sanction attached to the law, even an indeterminate one; there is no crime without punishment. Here again we must underline the distinction between committing a sin and committing a delict; the lack of a canonical penalty, even one to be determined by the competent authority to meet the circumstances, means that a law can be violated without the commission of a delict. This is not to

²⁵ See cc. 2201-2206. Also Bouscaren, 860-2.

²⁶ For a full discussion of the canons of the 1917 Code and their correct understanding regarding imputability, its presumption and mitigation, see: Innocent Swoboda, *Ignorance in Relation to the Imputability of Delicts*, Canon Law Studies 143 (Washington DC: CUA Press, 1941) 84-111.

²⁷ Canons 2206-2208.

suggests that laws without penalties are not to be obeyed, nor that their violation is not sinful, perhaps even gravely so.

Canon 2197 distinguishes four kinds of delict: public; notorious in law; notorious in fact; occult. The notions of public and occult, while obviously distinct, are fluid and the line between them very difficult to draw. Augustine suggests that a crime known only to two witnesses, while nearly occult, is still public, especially if there is no compelling reason to believe they will keep the matter to themselves. But he concedes that other canonists would demand a higher number of persons be aware of the situation.²⁸ What seems clear from the canon is that for a delict to be public it should be known to at least some witnesses and the circumstances be such that the matter could become widely known at any point. That which is not public is, by definition, occult, though this need not mean secret *per se*.²⁹ If a delict is committed in front of several witnesses but those witnesses have signalled their intention, or it might reasonably be inferred, not to divulge the matter, it remains occult. The law further provides for a distinction of a delict being materially occult; that is the crime itself is not publicly known, or formally occult, where it is the moral imputability of either the action or the person which is hidden. Notoriety in fact is extreme publicity; the matter is widely known and can be

²⁸ Augustine, 8:15.

²⁹ Canon 2197, 4°.

neither concealed nor excused,³⁰ while notoriety in law refers to matters which are the subject of a completed judicial process or a judicial confession.³¹

Canons 2212 and 2213 treat the situation of attempted or frustrated crimes. An attempted crime is one which is begun but abandoned, either because of a change of heart or because it cannot be brought to completion.³² A frustrated crime is one in which everything was done to complete the delict but, for some other reason, the result was not effected. Similar to this is the act of inducing, to no effect, another to commit a crime.³³ Such attempts constitute true delicts in themselves if the mere attempt has a penalty attached,³⁴ otherwise attempted or frustrated crimes have their own imputability which is greater or lesser depending on how close to completion the delict was, with frustrated crimes being more severely imputable than attempted crimes.³⁵ In the case of a delict which is freely abandoned, and which has not given rise to damage or scandal, the would-be criminal is freed from all imputability.³⁶

³⁰ Ibid, 3°.

³¹ Ibid, 2°.

³² Canon 2212 §1

³³ Ibid, §§2,3.

³⁴ Ibid, §4.

³⁵ Canon 2213 §§1,2

³⁶ Ibid, §3.

Penalties in the 1917 Code

Canon 2214 §1 asserted that it is the inherent and proper right of the Church, independent of any human authority, to coerce her delinquent subjects with both spiritual or temporal penalties.³⁷ This claim is rooted in the Church's divine establishment not as a mere teaching authority but as a perfect society, that is; one which possess everything necessary for her own internal ordering and governance and which exists without reference to, dependence on, or origin in, any human social construct, national or international. As a hierarchical society invested with the power necessary to govern, the ability to punish delicts, both for the good of the delinquent and the good of society, is not something which the Church merely possess, even by right, but it is a characteristic proper to her nature, that is to say; the Church cannot exist *qua* Church without the fullness of the power of governance given to her by God, which necessarily includes the exercise of coercive power over her members.³⁸

Within the context of the Code, this authority is coupled to an extended excerpt from the Council of Trent which treats upon its right understanding and exercise:

³⁷ Canon 2214 §1: “Nativum et proprium Ecclesiae ius est, independens a qualibet humana auctoritate, coercendi delinquentes sibi subditos poenis tum spiritualibus tum etiam temporalibus.”

³⁸ See: Bouscaren, 866; Augustine, 8:59-61.

Bishops and other ordinaries are reminded that they are shepherds not slave drivers, and that they must rule over their subjects so as not to domineer over them but to love them as sons and brothers; they should endeavour by exhortation and admonition to deter them from doing wrong so that, where there is wrongdoing, they may not have to punish transgressions with penalties.³⁹

We are to understand, therefore, that however right and proper, and at times necessary, the use of coercive power is within the Church, it is necessarily done out of love for the individual and the community, both of whom are harmed through the crime and helped through the administration of a penalty.

These penalties were defined by canon 2215 as being “the privation of some kind of good (spiritual or temporal) for the correction of the delinquent and the punishment of the crime, inflicted by legitimate authority.”⁴⁰ These penalties are divided by canon 2216 into three species: medicinal penalties, or censures; vindictive penalties; penal remedies and penances. Medicinal penalties have as their primary aim the reform of the offender and his rehabilitation into the Church and so persist in their effects until the delinquent has desisted from contumacy and had the censure lifted by

³⁹ Canon 2214 §2: “Meminerint Episcopi alique Ordinarii se pastores non percussores esse, atque ita praeesse sibi subditis oportere, ut non in eis dominantur, sed illos tanquam filios et fratres diligant elaborantque ut hortando et monendo ab illicitis deterreant, ne, ubi deliquerint, debitis eos poenis coercere cogantur.”

⁴⁰ Canon 2215: “Poena ecclesiastica est privatio alicuius boni ad delinquentis correctionem et delicti punitionem a legitima auctoritate inflicta.”

competent authority.⁴¹ The most serious of censures can have their absolution reserved.⁴² Like the reservation of sins,⁴³ the purpose of the reservation is to emphasise, both to the criminal and to the wider society, the seriousness of the crime. Censures can be reserved to the Holy See either simply, in a special way, or in the most special way, again to emphasise gravity.⁴⁴ While it can be debated whether or not the reservation of a censure was itself a penal action, its character does appear to be intended to serve both as a warning and as part of the medicinal remedy for the delict.⁴⁵ Medicinal penalties and censures provided by the Code in particular were: excommunication; interdict; suspension or clerical censure.⁴⁶

Vindictive penalties were aimed at the satisfaction of justice and the expiation of a particular crime. In this sense they are not, unlike medicinal penalties, dependent upon the disposition of the offender.⁴⁷ The Code provided for several vindictive penalties common to all the faithful. These

⁴¹ Canon 2241.

⁴² Canon 2245.

⁴³ Canon 893 §§1, 2.

⁴⁴ Augustine, 8:131; Bouscaren, 882; John Abbo & Jerome Hannan, *The Sacred Canons* 2nd edition, (St Louis: B. Herder, 1960) 2:824.

⁴⁵ Casimir Stadalnikas, *Reservation of Censures*, Canon Law Studies 208 (Washington DC: CUA Press, 1944) 19-22.

⁴⁶ Canons 2257; 2268; 2278.

⁴⁷ Canon 2286.

include, among others: a local interdict, infamy of law, denial of Christian burial, deprivation of the sacraments, loss of a Church pension or other right or privilege.⁴⁸ Other vindictive penalties applied specifically to the clergy. For example: prohibition of the exercise of sacred ministry, suspension, either permanent or for a time determined by the superior, penal transfer, privation of office or benefice, deposition, degradation.⁴⁹

Penal remedies or censures are those canonical measures used to prevent or eliminate disturbances of the social order.⁵⁰ Rather than punishments inflicted, they are rather courses of action taken by a superior to address problematic behaviour. Examples of these include: admonition or warning, correction or rebuke, precept or injunction, or being placed under vigilance or supervision.⁵¹

A penalty is said by the Code to be either determinate or indeterminate, that is; the nature of the penalty to be applied to a particular delict is either proscribed by the law itself, or left to the prudential judgement of the judge or other competent authority. Penalties are imposed either *latae sententiae*, that is, imposed *ipso facto* by the commission of the

⁴⁸ Canon 2291.

⁴⁹ Canon 2298.

⁵⁰ Paul Love, *The Penal Remedies of the Code of Canon Law*, Canon Law Studies 404 (Washington DC: CUA Press 1960) 30-32.

⁵¹ Canon 2306.

delict itself and so, in a sense, self-inflicted, or *ferendae sententiae*, that is imposed by some external process or individual.⁵² A penalty is said to derive either from the law, *a iure*, or from man, *ab homine*, depending on the manner by which penalty is proscribed and inflicted.⁵³

Penalties for Individual Crimes

The sources for penal law in the Church are, necessarily, many and varied. Individual penal laws were promulgated by various Councils, by individual popes, and drawn from a variety of legal sources, including of course, Gratian's *Decretum*.⁵⁴ While all of these sources informed the process of drafting the 1917 Code,⁵⁵ its treatment of penal law, and of individual delicts and penalties, is most immediately rooted in Pius IX's Apostolic Constitution *Apostolicae Sedis*.⁵⁶ This constitution represented an important effort to bring together the previously disparate and confusing layers of penal legislation on censures and individual delicts which had built up over

⁵² Canon 2217.

⁵³ Abbo-Hannan, 2:800.

⁵⁴ Augustine, 8:4.

⁵⁵ Pietro Gasparri, *Codicis iuris canonici fontes*, 9 vols. (Rome: Typis Polyglottis Vaticanis, 1923-1939). See especially vols. 2-3.

⁵⁶ Pius IX, apostolic constitution *Apostolicae Sedis moderationi*, 12 October 1869: *Acta Sanctae Sedis* [ASS] 5 (1869) 305-331.

centuries of papal governance, and to produce a coherent penal law for the Church. As such it is the immediate predecessor of the third of the three sections of Book V. While *Apostolicae Sedis* divided the individual crimes according to the penalty which was provided for them, the Code divides them according to the nature of the offence under nine titles.⁵⁷ Also, while *Apostolicae Sedis* only listed those crimes which were punished with a censure (excommunication, suspension, interdict) the Code includes provision among the specific crimes for all three categories of punishment.

While the rationale for ordering the section of Book V treating individual delicts according to the nature of the offence is plain, by considering the delicts grouped according to the punishment inflicted we are better able to consider the relative gravity of the various crimes and the seriousness with which the Church views them.⁵⁸ It also allows us to form something of an idea of which delicts the Church considers to be analogous, by observing how similar crimes are treated in a similar way. If we consider the list of individual delicts grouped according not to nature but gravity, we understand that the most serious crimes in the eyes of the Church are those

⁵⁷ These are delicts against: the Faith and unity of the Church; religion; ecclesiastical authority, persons, or things; life, liberty, propriety, good name or morals; crimes of falsehood; delicts concerning the administration of sacraments or the reception of orders; delicts against the obligations of the clerical or religious state; delicts concerning the reception or relinquishing of ecclesiastical offices or benefices; delicts concerning the abuse of ecclesiastical office or power.

⁵⁸ Abbo-Hannan, 2:864.

which she punishes with excommunication *latae sententiae*. This excommunication may be unreserved, as it is in the cases of publishers who print books of Sacred Scripture without proper authority,⁵⁹ or reserved, either to the Ordinary, or to the Holy See either simply, specially, or most specially.

Those delicts most specially reserved to the Holy See concern either the most outrageous offences against the sacraments, such as the direct violation of the seal of the confessional or the desecration of the host,⁶⁰ or those crimes which most directly undermine the hierarchical authority of the Church, such as a physical assault on the person of the Roman Pontiff, or the consecration of bishops without the approval of the Holy See.⁶¹ Those specially reserved delicts are those crimes against the Faith or the Church which can be said to be most serious, if not as outrageous as those most specially reserved. These would include: apostasy, heresy, and schism; simulation of the sacraments; the use of secular powers to hinder the rights and powers of the Church.⁶² Those delicts which are simply reserved are those crimes so serious as to merit the involvement of the Holy See for the lifting of the penalty in every case, including: clerics who attempt marriage;

⁵⁹ Canon 2318 §2.

⁶⁰ Canons 2320; 2369 §1.

⁶¹ Canon 2343 §1, 1°

⁶² Canons 2314; 2322; 2331; 2334.

those involved in simony or trafficking in indulgences; and most pertinently, those who join Masonic sects or similar societies.⁶³

Freemasonry in the 1917 Code of Canon Law

Canon 2335 states: “Those who join (give their names to) Masonic sects, or to associations of a similar nature who plot against the Church or legitimate civil authority, contract *ipso facto* excommunication simply reserved to the Holy See.”⁶⁴ The explicit inclusion of the canonical bar on a Catholic from joining the Freemasons is, on the one hand, unsurprising given the history of condemnation which we have already examined in chapter 1. On the other hand, its presence in the 1917 Code indicates that it survived not one but two (including the reforms of Pius XI) processes of streamlining the number of delicts in the universal law of the Church, indicating the seriousness of the matter. The exact wording of the canon reflects both notable changes and points of continuity from the provisions of *Apostolicae Sedis*. The censure of excommunication *latae sententiae*, simply reserved to the Holy See, was now applied only to those who “give their names”, or formally join Masonic sects; here was no obligation, as there had been

⁶³ Canons 2388; 2392, 1°; 2327; 2335.

⁶⁴ Canon 2335: “Nomen dantes sectae massonicae aliisve eiusdem generis associationibus quae contra Ecclesiam vel legitimas civiles potestates machinantur, contrahunt ipso facto excommunication Sedi Apostolicae simpliciter reservatam.”

previously, to denounce leaders of Masonic groups.⁶⁵ Absent also from the canon is an explicit reference to the *Carbonari*, who are no longer a prominent reality, following the success of the *Risorgimento*. Retained, however, is the crucial language *eiusdem generis* with the same potential for ambiguity which was discussed when we treated *Apostolicae Sedis*.

One canonical interpretation of canon 2335 is suggested in Jenkins' article. He proposes that the canon can be read to contain two separate requirements for a Catholic to commit the delict and thereby incur the excommunication: that they formally enrol as members of the organization (nominally Masonic or otherwise) and that the society must be “wholly devoted to heretical or subversive ends.”⁶⁶ Another reading of the canon argues that the word “wholly” is not implied in the text of the canon and that membership of any Masonic organisation is prohibited and incurs the excommunication as they are, *by their nature*, against the Church. Adrien Cance states that even if the Catholic does not attend meetings, or if the Lodge contains none of the trappings normally associated with Masonry, and

⁶⁵ Although, c. 2336 §2 states that clerics who have joined the Masons are to be denounced to the Holy Office of the Inquisition.

⁶⁶ Jenkins, 738, citing Lorenzo Miguélez, “Libro Quinto: De los delitos y de las penas,” in *Código de Derecho Canónico y Legislación Complementaria. Texto latino y versión Castellana, con jurisprudencia y comentarios*, ed. Lorenzo Miguélez et al. (Madrid: BAC, 1962) 830.

appears exceptionally harmless in its character, it is certainly still covered by the prohibition of the canon.⁶⁷

At this point we are again confronted with the question of cultural relativism - is Masonry the same world-wide for the purposes of the canon? Jenkins argues that each Masonic Lodge should be considered within its (at least national) context before deciding if it is covered by canon 2335, positing that the American Lodges are “far less subversive than most European ones.”⁶⁸ Augustine (while reaffirming the presumption of guilt in the case of all Masonic lodges and yet allowing for the legal possibility of producing facts to the contrary) explicitly includes all major lodges, regular and irregular, in the Western world, drawing no distinction between the Lodge in Italy or America in the application of the canon.⁶⁹ This would seem to be an interpretation more in keeping with the historical attitude of the Church towards Freemasonry as a global force unified by a common philosophy; Pius

⁶⁷ Adrien Cance, *Le Code de Droit Canonique; Commentaire Succinct et Pratique* (Paris: Librairie Lecoffre, 1952) 3:434: “même s'ils n'assistent pas aux réunions et ne manifestent aucune activité maçonnique, et meme, semble-t-il, si le loge est (exceptionnellement) inoffensive...”

⁶⁸ Jenkins, 739.

⁶⁹ Augustine, 8:34: “It is implied that every Masonic sect has this aim in view, but this is a mere presumption which can be overthrown by facts... It goes without saying that the “Grand Lodges” of America, the English Lodges of the York and Scottish Rite, as well as the Grand Orient and Supreme Council of France and Italy and elsewhere belong not only to the Masonic sect, as here intended, but are condemned sects. For there can be little doubt that they aim at subverting the Church and State.”

IX certainly drew no distinction in his writings on Freemasonry between the situation in America and Europe.⁷⁰

The significance of differences in Masonic practice and belief in different countries is a legitimate issue to consider when discussing a universal condemnation. Masonry itself is still deeply divided between the Grand Lodges and Grand Orients regarding the acknowledgement of the existence of God. It was these considerations which inspired the lengthy, parenthetical, consideration of Freemasonry in the United States in chapter 2. Our conclusion from that study was that Freemasonry in the United States, according to Jenkins, *inter alia*, the most benign iteration thereof, was still opposed to the Church in rite, ritual, philosophy and practice. Indeed, so far as inculturation needs to be taken into account when considering the Church's condemnation of Freemasonry, it is only to note with interest that different cultural contexts and circumstances have given rise to malign offshoots as varied as *P2* in Italy and the Ku Klux Klan in the United States.

If we accept, for the moment, that any society which calls itself Masonic properly falls under what the law intends by its use of the term Masonic in canon 2335, we may examine some of the questions raised around the application of the censure. The censure is applied to the act, by one

⁷⁰ *Etsi multa*, §27.

subject to the 1917 Code of Canon Law, of joining a Masonic Lodge or similar society, specifically: giving their name in membership. Canon 19 stated that laws establishing a penalty are subject to strict interpretation.⁷¹ In the case of canon 2335, this would seem to suggest a possible *lacuna* concerning those who joined the Masons and were subsequently baptised. Before baptism they would not be subject to the provisions of the Code and could not be excommunicated, afterwards they would not have committed the delict of *nomen dantes*, actively giving their name (the canon does not say *having given* the name, past tense). If they refused to withdraw from the Masonic society, would they incur the censure? It would seem not, as Quigley also concludes.⁷²

We must also note that secrecy is not mentioned in the text of the canon. As has been seen, secrecy is itself a characteristic against which the laity are warned (c. 684), and secrecy was a regular part of the description of those identified by the various papal documents as Masonic sects. Indeed, at times the words “secret” and “Masonic” seem to be used almost interchangeably. Yet we have seen that the various popes moved away from secrecy as a constitutive characteristic of Masonry, in either conception or

⁷¹ Canon 19, *CIC* 1917: “Leges quae poenam statuunt... strictae subsunt interpretationi.”

⁷² Quigley, 54.

action, with *Apostolicae Sedis* employing the provision “*seu palam seu clandestine*” and secrecy now dropped entirely from canon 2335.

Masonry, to this day, enforces vows of secrecy among its initiates and members, yet if we correctly apply the term *eiusdem generis*, as already discussed, and understand the other societies referred to in the canon as similar to Masonry in their intrinsic orientation against the teaching of the Church, which is itself a *machinatio*, then we see that there is no provision in canon 2335 that such a society be secret in either its constitution or action. A further shift in the language between *Apostolicae Sedis* and canon 2335 is the substitution of *associationibus* for *sectis*. Augustine suggests this broadens the description to include more open or loosely formed groups rather than the more closed, self-contained societies implied by *sectis*.⁷³

Masonry in Other Canons in the 1917 Code

Catholics who join the Freemasons, or other prohibited societies, in addition to incurring the excommunication included in canon 2335, also become subject to a number of other disabilities and penalties proscribed by the Code. Canon 2336 provides for additional penalties to be imposed *ferendae sententiae* for clerics and religious who committed either of the

⁷³ Augustine, 8:341-44. Quoted by Quigley, 63.

delicts proscribed by canons 2334 and 2335.⁷⁴ While a number of possible penalties are listed, they are indeterminate.⁷⁵ Suspension, privation, or loss of office for a cleric, in addition to loss of passive and active voice for a religious, can all be imposed by an authority, though it is an interesting provision by the Code since many of these penalties are invoked automatically through the excommunication contracted by the delict canon 2335.⁷⁶ It does however permit for the elevation of certain penalties automatically contracted; from suspension to loss of office for example.

Paragraph two of canon 2336 retained the obligation to denounce to the Holy Office clerical or religious members.⁷⁷ This reservation to the Holy Office indicates that, although the canon is situated within Title XIII of Book V, on delicts against ecclesiastical authority, in fact the delict of joining the Masons is a delict against the faith itself. This is supported by Augustine who

⁷⁴ Canon 2334 imposes excommunication *latae sententiae*, reserved in a special way to the Holy See, on those who pass laws or decrees which infringe on the Church's freedom or rights or who impede, directly or indirectly, her exercise of jurisdiction.

⁷⁵ Canon 2336 §1: "Clerici qui delictum commiserunt de quo in can. 2334, 2335, praeter poenas citatis canonibus statutas, poena suspensionis vel privationis ipsius beneficii, officii, dignitatis, pensionis vel muneris, si qua forte in Ecclesia habeant: Religiosi autem privationem officii et vocis activae aliisque poenis as normam constitutionum plectantur."

⁷⁶ See Canons 2260-2267 on effects of excommunication.

⁷⁷ Canon 2336 §2: "Insuper clerici et religiosi nomen dantes sectae massonicae aliisque similibus associationibus denuntiari debent Sacrae Congregationi S. Officii."

states in relation to the obligation to denounce: "Superiors are not allowed to meddle in such cases because they concern matters of faith."⁷⁸

Given that the delict (c. 2335) seems to touch upon faith, it was strange to see it linked by canon 2336 with another delict so explicitly regarding governance and jurisdiction in the Church; canon 2334, which concerns the use of civil power to deny the Church exercise of her rights and jurisdiction. The reason for this is best found when considering the origins of another of the disabilities of Masons within the Code: all Masons, whether Catholic or not, cannot join associations in the Church.⁷⁹ Quigley notes that this canon is drawn from particular experiences in South American countries where civil authorities, explicitly anti-Church and openly Masonic, placed all Church property under the administration of groups; either confraternities, pious associations or third orders, the membership of which they could control. This was a particular problem in Brazil where Masonic groups directed the entire liturgical and sacramental life of whole regions. When an interdict was imposed by the ecclesiastical hierarchy, two bishops were imprisoned and the Masons, lay and clerical, continued to hold liturgies, now in full Masonic regalia.⁸⁰ These events clarify the link made by canon 2336 between the

⁷⁸ Augustine, 8:347.

⁷⁹ Canon 693 §1: "Acatholici et damnatae sectae adscripti aut censura notorie irretiti et in genere publici peccatores valide recipi nequeunt."

⁸⁰ Quigley, 89-93. Also: *CIC Fontes*, 3:70, n. 563 and 2:99, n. 571.

seemingly unrelated canons to which it refers on Masonic membership by clerics and obstruction of the jurisdiction of the Church, and helps account for why Masonry seems to sometimes be a crime against authority and sometimes against the Faith.

Canon 1065 presents us with more of the context within which the 1917 Code sees membership of the Freemasons. It provided that Catholics are to be deterred from marrying: either those who have notoriously rejected the Catholic faith (apostates); or those who are enrolled in a society condemned by the Church.⁸¹ The canon made no distinction between a baptised or non baptised Mason and placed them both in the same context, as it pertains to the danger posed to the faith of the Catholic party to be married, as an apostate. This must appear even more deliberate when we consider that the subsequent canon treated the marriage of notorious public sinners. Augustine agrees when he says that the canon treats as the same “marriages with unbelievers and Freemasons.”⁸² Should the pastor be unable to dissuade the Catholic party from the marriage, he is to refer the matter to the Ordinary who may grant permission but only for grave reasons, and having satisfied himself, through the obtaining of guarantees, that the

⁸¹ c. 1065 §1: “Absterreantur quoque fideles a matrimonio contrahendo cum iis que notorie aut catholicam fidem abiecerunt... aut societatibus ab Ecclesia damnatis adscripti sunt.”

⁸² Augustine, 5:154.

danger to the faith of the Catholic and any children has been provided against.⁸³ Quigley notes, when considering Masons and marriage, that the Masonic oath can be considered an even more severe impediment to Catholic marriage than heresy since Masonic teaching is not merely heretical but anti-Christian, with the ultimate purpose of totally uprooting the Church and overturning the Faith.⁸⁴

This neatly surmises an important point: the Masonic oath actually constitutes an act of ascription to a sect which is *at least* heretical and could be argued to rise to the level of apostasy.

Masons, presumably baptised this time, are found keeping the same low canonical company in canon 1240. Here it is provided that, unless they had given some sign of repentance before death, the following were to be denied Christian burial: Notorious apostates from the Christian faith, or members of heretical or schismatic sects, or members of masonic sects, or societies of a similar nature to which they are notoriously ascribed.⁸⁵ What is of further note is that Masons are grouped, within this canon, among apostates, heretics, and schismatics, and not with the merely

⁸³ Canon 1065 §2.

⁸⁴ Quigley, 97.

⁸⁵ Canon 1240 §1: “Ecclesiastica sepultra privantur, nisi ante mortem aliqua dederint poenitentiae signa: 1º. Notorii apostatae aut sectae haereticae vel schismaticae aut sectae massonicae aliisve eiusdem generis societatibus notorie addicti.”

excommunicated, who appear in the subsequent numbers of the canon. Still further, Freemasons, again along with apostates, heretics and schismatics and pagans, were unable to receive the right of personal patronage.⁸⁶

From all of these various penalties and consequences, it is possible to draw several observations. First: the 1917 Code of Canon Law left intact the absolute bar on Catholics joining Masonic lodges, maintaining the penalty of excommunication incurred by the act itself. Second: A number of other disadvantages and penalties accrued to Catholics who became Masons including denial of a Christian burial. Third: throughout the 1917 Code's treatment of Masons they are placed within the context of those who sin gravely against the Faith; apostates, heretics, and schismatics. Fourth: all the penalties imposed *latae sententiae* for joining the Masons are medicinal, that is motivated towards the conversion of the delinquent and, while reserved, dependent upon their contrition for their cessation. Fifth: those vindictive penalties which apply to Masonry and which treat it as a delict against authority pertain only to clerics and religious, and are imposed only by competent authority, and not *ipso facto*. Sixth: the canons recognise that, in line with the provisions of *Apostolicae Sedis* and the evolving understanding of Masonry in papal documents, the characteristics of Masonry which are condemned can be found in associations which do not,

⁸⁶ Canon 1453.

necessarily, seem related to Masonry at first glance, but should still be included under the provisions of the various canons.

Similar Societies Under the 1917 Code

The purpose of the work is not, of course, to demonstrate that membership of the Freemasons by a Catholic was forbidden under the 1917 Code of Canon Law; that much can be demonstrated by a simple plain text reading of the canon. The ultimate purpose of this work is to consider the situation under the 1983 Code of Canon Law, which does not have an explicit mention of Freemasonry. From this perspective, which associations were held to be similar to the Freemasons and covered by the provisions of canon 2335 can prove most instructive in coming to a better understanding of what was considered worthy of condemnation and canonical censure in all societies, and which informed the process of revision which led to the current wording of canon 1374 of the 1983 Code of Canon Law.

There is, as has been seen in chapters 1 and 2, a broad basis to assert that to be included under the heading of societies *eiusdem generis* are those societies linked directly to Freemasonic Lodges but called under some other local name. It would also include those societies previously condemned by the Church, by name, as being Masonic: the Carbonari; Universetaria; and so on. What is more interesting is to consider which societies were held to be *eiusdem generis* but were not explicitly Masonic in rite or ritual. The single

descriptive element of the canon is that such societies plot either against the Church or legitimate civil power.⁸⁷ Having discussed already that the earliest discoverable usage of *machinatio* in a canonical context is to describe the distribution of vernacular Bibles,⁸⁸ we may correctly understand the verb to mean the undermining of the Church, not necessarily through physical insurrection or opposition to the hierarchical institution, but also through the systematic contradiction of her doctrine and dogma through an opposing ideology or agenda. Augustine phrases it as: “The Church is plotted against if the whole Church, not merely particular parts of it, is attacked in her dogmas, disciplinary or administrative laws, in her hierarchy or her ministers.”⁸⁹ While this definition serves to illustrate, to a degree, the different means of plotting, it omits the plot first identified by the popes in their condemnation of Masonry and similar societies; that they plot against the Church by undermining the faith of her members and transferring their allegiance from the Church to the Lodge. Franz Wernz comes to a more nuanced description of *machinatio* by defining plotting as “either action or the propagation of subversive doctrine, whether spoken or written” (*actione*

⁸⁷ Canon 2335: ...”quae contra Ecclesiam vel legitimas civiles potestates machinantur....”

⁸⁸ *Traditi*, §5.

⁸⁹ Augustine, 8:342.

sive propogatione doctrinae subversivae, quae ore vel scripto).⁹⁰ This subversion can be aimed at any part of the Church's legitimate ministry such as her doctrine, authority, or laws.⁹¹

Also of interest, when parsing the language of canon 2335, is that societies are condemned and punished not only for plotting against the Church but also “legitimate civil authority.” The first thing which must be noted is that the language of the canon uses the Latin disjunctive *vel* between the actions of plotting against the Church and legitimate civil power, that is; the society may do either alone and still come under the provisions of the canon, and those who join them commit the delict and incur the penalty.⁹²

As has been seen in earlier chapters, the historical opposition of Freemasonic Lodges to both the hierarchical institution of the Church and the legitimate civil Government certainly has occurred in times and places where the two existed with the natural and proper relationship of mutual assistance, cooperation, and respect, as was the case in Spain. It is also true that the Church has been the victim of Masonic sedition and violence when and where she herself was both the ecclesiastical and civil power, as in the Papal States. Nevertheless, the two propositions are distinct in the canon.

⁹⁰ Franz Wernz & Petrus Vidal, *Ius Canonicum*, 7 vols. 3rd Edition (Rome: Universitatis Gregorianae, 1943) 7:511.

⁹¹ Ibid, 511-512.

⁹² Quigley, 26.

The constitution of a civil authority as “legitimate” is not an exact science. It is clear that there is more to legitimacy than mere effective control and the formation of a formal government; this much was accomplished by the Masonic government of Spain in 1820 and the Church openly denounced that administration and coordinated military opposition to it.⁹³ Augustine recognises that there can be conflicting verdicts on the legitimacy between international and national authorities, to say nothing about in the conscience of the individual. He concludes that legitimacy can usually be inferred from a consensus of other nations, either through formal declarations or the implicit recognition of diplomatic relations.⁹⁴ He concedes, however, that the conscience of the individual cannot be settled by a “League of Nations.” Indeed, we can readily recall that, at the time of the promulgation of the 1917 Code, the Kingdom of Italy, while recognized by the international community as legitimate, was, in the mind of the Church and in fact, merely a gang of Piedmontese usurpers squatting on the patrimony of the Holy See.

An interesting case to consider is how this canon would be applied to situations where the legitimate civil authority being opposed was itself actively opposed to the Church and Faith, and those plotting against it were, or at least claimed to be, faithful Catholics. Such a case could be found

⁹³ See: chapter 1, note 79.

⁹⁴ Augustine, 8:343.

concerning the British occupation and administration of Ireland in the nineteenth and early twentieth century.

The Fenians

At the time of the promulgation of the Pio-Benedictine Code of Canon Law, Ireland had been under English rule, in one form or another, since the twelfth century, when King Henry II invaded Ireland. While today it is culturally common to frame the situation in Ireland as one in which the native Catholic population, loyal to Rome, are subjugated by the English Protestants, the origins of the English involvement in Ireland are rather more tangled. In fact, the ultimate claim of legitimacy by the English in Ireland rests on papal authority.

The Church in Ireland, which gave birth to numerous saints, had, through her monks, been responsible for the preservation of much culture, and a wave of evangelisation, spreading across Scotland, northern England, and Europe, following the collapse and retreat of the Roman Empire. Nevertheless, by the twelfth century the Irish hierarchy was, at least in the collection and remittance of Peter's Pence, a delinquent daughter of Rome.⁹⁵ With the papal bull *Laudabiliter*, Pope Adrian IV, an Englishman, authorized

⁹⁵ Edmund Curtis, *A History of Ireland from Earliest Times to 1922* (New York: Routledge, 2002) 39-42.

Henry II to invade Ireland and administer it on behalf of the Holy See, whose it was by right of the Donation of Constantine.⁹⁶ While, to put it mildly, much happened in the intervening eight hundred years, the English were still in control of Ireland at the beginning of the twentieth century.

The Fenians were a secret society present throughout Ireland and the United States from the time of the mid nineteenth century, their corporate aim was the overthrow of British government in Ireland and the establishment of an independent Republic of Ireland.⁹⁷ While the vast majority of their members were Catholics, and they had no ambition to subvert the Church in any way, their treatment by Church authorities underlined that the canonical proscription of societies which plotted against *either* the Church *or* the State was real.

The canonical controversy concerning the Fenians centred around whether or not the British rule of Ireland was legitimate. It cannot be disputed that to the consciences of many, indeed most if not almost all, of the

⁹⁶ It is not within the scope of this work to debate the historical authenticity of the Donation of Constantine. It is, however an established legal reality in the canonical tradition of the papacy. While the generally accepted year for the bull *Laudabiliter* is 1170, there is no reliable original academic citation available. Again, it is not within the scope of this work to debate the historical realities of the document. That it forms a part of the canonical exercise of papal power is undoubtable since it was cited, *inter alia*, in three separate bulls of Alexander III. For a more lengthy treatment of the Bull and its indirect citations, see: Curtis, 48.

⁹⁷ For a history of the Fenians see: John Savage, *Fenian Heroes and Martyrs* (Boston: Kistler, 1868); Hugh Pollard, *Secret Societies of Ireland* (London: Philip Allan & Co., 1922); Quigley, 22-23.

Irish it was demonstrably not legitimate and so they did not consider themselves to fall under the various papal prohibitions against secret and seditious societies.⁹⁸ The Irish hierarchy disagreed and frequently spoke against the movement and withheld absolution from members.⁹⁹ The matter was brought before the Holy Office which confirmed that the delict pertained to societies which plotted against civil authorities alone and therefore applied.¹⁰⁰ By the time of the 1917 Code, it was understood and universally accepted by all the canonical commentators that the Fenians, and their like, were a society *eiusdem generis* to the Freemasons, even though they posed no discernable threat to the Church or the Faith directly.¹⁰¹

Canon 2335 and the Communist Party

Like Freemasonry, Communism has been the subject of papal condemnation from the time it first came to the attention of the Holy See, and Catholics have been warned against its false lights and forbidden to join its ranks. The first time which Communism is condemned by name is in the

⁹⁸ See chapter 1.

⁹⁹ Pollard, 57. Original citation; Quigley, 23.

¹⁰⁰ Sacra Congregatio Sancti Officii, *Declaratio*, 5 August, 1846: *CIC Fontes*, 4:177, no. 899.

¹⁰¹ Wernz-Vidal, 7:512; Augustine, 8:344; Quigley, 23.

1846 encyclical letter of Pius IX *Qui pluribus*.¹⁰² As we have seen in chapter 1,¹⁰³ this letter was a stirring defence of the Church's rights and prerogatives, as well as a stinging condemnation of the ideologies of modernism and religious indifference, originating in Freemasonry but now found across society under various forms or names, and which were poisoning civilisation. It is fascinating to note that the first papal condemnation of Communism in *Qui pluribus* actually predates the publication of the Communist Manifesto by two years.¹⁰⁴

Unlike Freemasonry, Communism has no quasi-religious mythos, no elaborate rituals or ceremonial garb. It does not insist upon fictitious links to past societies, like the Knights Templar. Nor does it promote occultist theories of mathematics. It is strictly, and unabashedly, a modern, atheistic, socio-economic philosophy. While seen at this level, there would seem to be little in common between a Grand Lodge and the Communist Party. Nevertheless, Murphy correctly concludes Communism, both as an ideology and a movement, grew out of the fertile soil of the nineteenth century, one which was consistently manured by the liberalism, rationalism, and atheism

¹⁰² Pius IX, encyclical letter *Qui pluribus*, 9 November 1846: *Acta Pii*, I, 1:14-24.

¹⁰³ See chapter 1, note 65.

¹⁰⁴ Richard Murphy, *The Canonico-Juridical Status of a Communist*, Canon Law Studies 400 (Washington DC: CUA Press, 1959) 42.

which had caused many to abandon their faith and for society as a whole to weaken or abandon its collective sense of morality.¹⁰⁵ We might, then, say that Freemasonry and Communism are as alike as a tree and an apple: the tree is not the fruit, nor does it look like one; but the one is born of the other and contains its essential nature.

In 1849, Pius IX sent a letter to the bishops of Italy in which he warned of the various dangers to Italian society. In the section in which he specifically denounces Communism, he warns of the gradual undermining of the faithful, leading them progressively further from the Church and deeper into an agenda which is aimed first at the dispossession and destruction of the Church and then others, and eventually the violation of all divine and human laws, the destruction of divine worship and the total subversion of the whole social order.¹⁰⁶ Indeed, the Communist Manifesto itself boasts of the aim of bringing down society in this manner and, further, usurping the education of all children as a means of breaking down the family.¹⁰⁷ Taken together, this portrait of an ideology bent of the subversion and destruction of

¹⁰⁵ Murphy, 5.

¹⁰⁶ Pius IX, allocut. *Nostis Nobiscum*, 5 December 1849: *Fontes*, 2:837-849, no. 508: ...”ut postmodum illorum opera uti possint ad superioris cuiusque Auctoritatis regimen oppugnandum, ad expilandas, diripiendas vel invadendas Ecclesiae primum, ac deinde aliorum quorumcumque proprietates, ad omnia tandem violanda divina humanaque iura, in divini cultus destructionem atque in subversionem totius ordinis civilium Societatum.” Original citation; Murphy, 44.

¹⁰⁷ Karl Marx, *The Communist Manifesto*, (Chicago: Henry Regnery, 1949) 28-29.

not just the hierarchical Church, but of the entire doctrine of the faith and indeed of society, is almost exactly the same in intent and method as the image of Freemasonry rendered by Leo XIII in his address to the bishops of Italy.¹⁰⁸ Indeed, Pius IX included them together in the Syllabus of Errors¹⁰⁹ and Leo XIII would explicitly link the two movements, grounding the origin of the one in the philosophy of the other, and highlighting their common agenda against the Church.¹¹⁰

There is no doubt that joining the Communist Party must be considered as joining a society *eiusdem generis* to Freemasonry according to the provisions of canon 2335, and canonical commentators are in agreement.¹¹¹ What is far more interesting is to consider what other delicts were committed, under the 1917 Code, by the act of joining the Communist Party, since ascribing to an avowedly atheistic group would, presumably, constitute a denial of the existence of God.

Murphy asserts that for a Catholic to embrace (through membership) the principles of a party which, as foundational principles, denies: the existence of God; the immortality of the soul; the possibility of Divine

¹⁰⁸ Leo XIII, encyclical letter *Dall'alto dell'Apostolico Seggio*, 15 October 1890: ASS 23 (1890-1891) 193-206. Quoted in chapter 1, note 94.

¹⁰⁹ Pius IX, *Syllabus Errorum*, 1864: *Fontes*, 2:1002, no. 543, §4.

¹¹⁰ Leo XIII, encyclical letter *Humanum genus*, 20 April 1884: ASS 16 (1884) 417-433, §6.

¹¹¹ Augustine, 8:342; Wernz-Vidal, 7:513; Bouscaren, 962; Quigley, 101; Murphy, 85-86.

revelation; is for them to commit an act of apostasy.¹¹² This exact proposition was put to the Holy Office in 1949. They were asked, *inter alia*: “Whether the faithful who profess the materialistic and anti-Christian doctrine of Communists, and especially those who defend or propagate it, incur *ipso facto* as apostates from the Catholic faith the excommunication specially reserved to the Holy See?” The answer was returned simply “Affirmative.”¹¹³

We are left, then, with the following conclusion of Murphy, which is the product of unanswerable logic: since Communism and Masonry are held, by the consensus of learned commentary and the freely stated and repeated condemnations of the Holy See, to be societies *eiusdem generis*, one who joins the Communist party participates, or at least passively supports, their action against the Church and incurs the excommunication provided by canon 2335; the act of joining separately constitutes an external adherence to their doctrine, which is itself a rejection of the totality of the Christian faith amounting to apostasy, and incurs the excommunication specially reserved to the Holy See provided by canon 2314.

It requires little, if any, elasticity of mind to see how this same canonical principle can be applied to the case of a Catholic Mason: the act of joining the Lodge incurs the simply reserved excommunication of canon 2335

¹¹² Murphy, 71.

¹¹³ Holy Office, *Decree*, 1 July 1949: AAS 41 (1949) 334. English quoted from: Thomas Bouscaren, *The Canon Law Digest*, 3 vols. (Milwaukee: Bruce Publishing, 1953) 3:658-9.

as participation in the *machinatio* of the Lodge; the participation in the ceremonies on Masonic initiation, as described in chapter 2, constitute an external renunciation of, if not all then at least many, of the doctrines of the Church, among them the unique salvific power of baptism, and the commission of the delict of heresy under canon 2314.

Canon 2335 in Application

As has already been discussed in this chapter, Freemasonry appeared in the 1917 Code of Canon Law in no fewer than seven canons,¹¹⁴ with canon 2335 articulating the ban on Catholic Masonic membership and providing for the penalty of excommunication, *latae sententiae*, reserved to the Holy See.¹¹⁵ The exact wording of the canon provided for the penalty to be applied to the specific action of joining the Masons: *nomen dantes*.¹¹⁶ This, in light of the principle that laws which impose penalties are to be interpreted strictly (canon 19 in the 1917 Code), seems to suggest that a Mason who became a Catholic and did

¹¹⁴ See: canons 2335; 2336; 1240 §1, 1°; 1065 §1; 542 §1; 693 §1; 1453§1.

¹¹⁵ Canon 2336 provided further vindictive penalties for clerics and religious who joined the Masons.

¹¹⁶ Canon 2335: “Nomen dantes sectae massonicae alisive eiusdem generis associationibus quae contra Ecclesiam vel legitimas civiles potestates machinantur, contrahunt ipso facto excommunicationem Sedi Apostolicae simpliciter reservatam.”

not give up his membership would not be covered by the penalty (though still in a state of grave sin).¹¹⁷

We must also consider, in the light of the need for imputability in order for a delict to be committed and a penalty to be incurred, the possibility that a Catholic might, despite centuries of explicit condemnations by the Church, join a Lodge sincerely and invincibly ignorant of the sinfulness of what he was doing.

Indeed, if we recall the language of the various papal condemnations, we know that Masonry was often spoken of as drawing in Catholic members and deceiving them with false doctrine. This being the case, and having observed that there is virtually no limit to the names by which Masonry may go, it is conceivable that a Catholic could join the Masons, if not with good reason, at least without full knowledge of the severity of the provisions of canon 2335. In this case, canon 2229 of the 1917 Code made it clear that if the law implied that full knowledge and deliberation was required for the commission of an act, then imputability was diminished. Yet canon 2335 did not contain the listed key words which conveyed the need for full knowledge.¹¹⁸ The law

¹¹⁷ See note 72.

¹¹⁸ Canon 2229 §2: “Si lex habet verba: *praesumpserit, ausus fuerit, scienter, studiose, temerarie, consulto egerit.*”

provided that ignorance of the law, or even only of the penalty, excused from medicinal but not vindictive penalties provided that it was neither crass nor supine.¹¹⁹ Since the penalty of canon 2335 was medicinal and not vindictive, it is mitigated by ignorance of the law. One invincibly ignorant of the condemnation and censure of Masons, therefore, would not incur excommunication.¹²⁰

It is true that many join the local Masonic Lodge not out of philosophical sympathy, interest in the occult or any intention of defecting from the Catholic faith, but merely because there are concrete practical and financial benefits to be had from gaining access to the closed social network presented by the Lodge. Many indeed report that Masonry, especially in twentieth century America and Britain, was sometimes a positive necessity to progress in some professions. There was, consequently, a material benefit for a Catholic to be enticed into the Lodge, perhaps believing the Church's prohibition to be misguided, and a damage to him if he resigned from it. This has been advanced as one of the reasons why a total ban on membership in the law is considered by some to be unworkable. It is asked: if the Lodge does not appear to have any explicit motive or action against the Church and

¹¹⁹ Canon 2229 §3, 1°, *CIC* 1917.

¹²⁰ Quigley, 52.

functions primarily as a business network within the local community, seemingly indistinguishable from the local Knights of Columbus Circle (as it often does in the Mid-West and Southern United States)¹²¹ is there a need for the Catholic to resign, since this will do no damage to the Masonic Lodge and potentially great damage to the individual? Could he not simply cease to take part in the workings of the Lodge at a practical level?

The short answers, according to the 1917 Code, were: yes, he must, and no, he may not. The perceived benignity of the Lodge is immaterial, since it is, as has been demonstrated, the underlying philosophy of Masonry which renders membership toxic to the Faith. Persevering in Masonry, however one came to join the Lodge, is itself a grave sin. Masonry, in the eyes of the 1917 Code, can indeed be seen as a form of, or analogous to, heresy. Indeed, in a bull on the occasion of the Holy Year in 1926, Pius XI relaxed the reservation of the lifting of the censure for Masonic membership to the Holy See (one of the very few occasions when this was done)¹²² but in doing so he again placed the provisions for the relaxation of the penalty for both masonry and heresy within the same article, calling them similar cases.

¹²¹ Whalen, 15

¹²² Pius XI, Apostolic Constitution *Servatoris Iesu Christi*, 25 December 1925: AAS 17 (1925) 616.

As Cance notes, the Holy Office provided six criteria which had to be met before a Catholic Mason could receive absolution from the penalty of excommunication. These were: total rupture with the Lodge; reparation of the scandal caused by their membership; public retraction of Masonic errors; remission of any Masonic books or ritual manuals to the Holy Office; denunciation to the Holy Office of clerical or religious Masons; and proper penance.¹²³ The first three of these conditions, we see, have to do with the external damage which is caused by a Catholic being a Mason; the effects of membership are not limited to the individual but impact those who may be influenced by their bad example, similarly led into error or themselves be inspired to question the Church's exercise of authority. The insistence on the handing over of any Masonic literature demonstrates that, far from being a relic of a centuries old culture war, the Church's prohibition on Masonry remained informed by current Masonic philosophy and practice as exhibited by their own works.

The *machinatio* against which the Church is guarding herself and the faithful is exhibited not only through openly attacking the Church

¹²³ Cance, 3:435, 4°.

but through what Masons propose internally to themselves,¹²⁴ either
*“par la plume, par la parole, ou par l'action.”*¹²⁵

Canonical Equity and Canon 2335

It is, of course, rare to find a penalty applied in canon law without the possibility of some application of equity. It is the usual situation to find that a universal prohibition may be tempered by a recognition of individual circumstances. In the late nineteenth century there were numerous cases of men in the United States, and other places, joining Masonic Lodges (or quasi-Masonic societies, such as the Odd Fellows, the Knights of Pythias and others), membership of which functioned as a form of health and life insurance and pension and who often acted as the lender for the mortgage on the family home. Following the explicit repetition, by Leo XIII, of the Church's absolute condemnation of the Masons, Catholic members who withdrew faced the loss, not only of the benefit of health insurance, but also the forfeiture of their contributions to the common life insurance and pension funds. This would be in addition to the material harm they might suffer in their businesses and career prospects. To have stopped their membership payments would

¹²⁴ Leo XII, encyclical letter *Quo graviora* §11, 13 March 1825: *BSP* 16: 345-355.

¹²⁵ Cance, 3:435.

have had minimal impact on the societies themselves but would have meant significant hardship for the Catholic member and their family.¹²⁶

There was, therefore, considerable concern that some pastoral solution to the problem be found; and some began to ask Rome if so-called passive membership were possible. Pope Leo XIII entrusted the examination of this matter to the Holy Office, which decided that this was not, generally speaking, possible.¹²⁷ However, it did recognise that this could be tolerated in particular cases if certain conditions were met.

These conditions were that: the Masonic society had been joined in good faith and before the member knew it was condemned; that there be no scandal in the retention of passive membership, or that such scandal was removed by declaring that membership was being retained only to avoid material loss, with all communications and attendance at meetings ceasing; that there be a real impossibility of withdrawing from the society without grave loss to the member's family; that there was no danger of the man or his family being perverted by the society, especially in case of sickness or death, or that there be any danger of a non-Catholic funeral.

¹²⁶ Quigley, 120.

¹²⁷ *Dubium Ex S. Congregatio S. R. U. Inquisitionis*, 19 January 1896: ASS 28 (1895-96) 699: "Generatim loquendo, non licere."

To these conditions, Leo himself added that, owing to the gravity of the matter and the difficulties and particularities which would be involved in each case, individual permission for the retention of passive membership would need to be sought through the Apostolic Delegate.¹²⁸ It was envisaged that cases would be referred to the Delegate by the priest who was hearing the confession of a Catholic Mason and was applying simultaneously for the permission for the faculty to absolve the penitent and lift the reserved penalty. The priest would receive, in return, a questionnaire which the Catholic Mason would need to complete and sign. In it he would attest to fulfilling the various criteria laid down by the Holy Office, including substantiating the financial loss faced by withdrawal, undertaking to sever all other ties with the society and avoid any danger of the perversion of either his faith or that of his family and affirming that his passive membership would not give rise to any scandal.¹²⁹ The form required that the name and significance of the society be expounded upon, this was in recognition that passive membership was not generally permitted in any condemned society, and in some cases, such as the Scottish Rite of Freemasonry, never tolerated.

¹²⁸ Ibid. Originally cited by Quigley, 121.

¹²⁹ While copies of the form are no longer held on file at the Apostolic Nunciature, a blank copy of this form is included in Quigley, 123.

The letter of response, granting the permission, restated the four criteria on which it was granted and, in some cases, added an instruction on how this was to be ensured. One example of this was that passive members were permitted to continue paying their fees but were required to do so through a third party, to avoid the possibility of being drawn back into active membership through frequent contact with the society. By 1913, the faculty to grant permission to retain passive membership was extended to all the metropolitans of the United States, with similar forms being used.

How to Marry a Mason

The application of canonical equity to mitigate the absolute prohibition on Catholics from participating in Masonry was also seen in the case of marriage. Canon 1065 provided that Catholics were not to marry heretics or those who had left the Church and rejected the faith. Catholics who had joined the Masons were expressly included in these categories.¹³⁰ While Masons were to be denied Christian burial (c. 1240 §1, 1^o) there was no corresponding absolute bar on them having access to marriage. While the provision of canon 1065 was that the Ordinary should look into the matter and the circumstances before allowing a

¹³⁰ Canon 1065 §1: “aut societatibus ab Ecclesia damnatis adscripti sunt.”

Catholic to marry a Mason (c. 1065 §2), it did not explicitly cover what to do if a Mason wished to have his union blessed by the Church. One such case came to the Congregation for the Doctrine of the Faith in 1967.

In this case, a baptised Catholic who had joined the Masons as an adult, following the example of his father, and given up the practice of the faith, married a non-Catholic woman, though the daughter of a Catholic, in an Anglican church. This union was, of course, not valid under the 1917 Code of Canon Law. The man, a self-professed lapsed Catholic and practicing Mason, wished the Church to convalidate his marriage, while expressing no desire to approach the sacrament of reconciliation with regard to his Masonic membership or to withdraw from it.

The pastor presenting the case to the Congregation noted that the man was not especially active in his Masonic practice, but rather retained his membership for sentimental reasons, and was furthermore “ignorant” and little able to understand the incompatibility of the Faith with Masonry. It was also noted that he and his wife, who was terminally ill and the daughter of a Catholic, had no children. There was no scandal attached to the man's membership. It was the pastor's hope that a valid union might help bring about the conversion of the wife and the return of the man to the Church.

The Congregation, noting the absence of children and scandal, permitted the marriage to be convalidated at the discretion of the Ordinary, observing that, while not an ideal situation, the possibility of the sacrament of marriage, validly effected, leading the couple to communion with the Church was sufficient reason.¹³¹ This reflected the fact that the penalty for Masonic membership was medicinal; that is, for the benefit and correction of the one who was punished. The salvation of souls is, of course, the supreme law of the Church.

Conclusion

The 1917 Code of Canon Law, upon first glance, does not appear to represent a significant change in the canonical treatment of Masonry, nor the delict of membership or its proper punishment. Canon 2335 substantially retains the language of *Apostolicae Sedis* and seems to merely serve to include the delict as formulated by Pius IX in Book V of the Code.

Where we discover interesting new fodder for thought is in the other places in which Freemasonry is mentioned within the Code; this allows us to see where Masonry is placed within the wider canonical context and how it is framed within the mind of the legislator. Strictly

¹³¹ Sacred Congregation for the Doctrine of the Faith, Prot. N. 1031/67m, 8 April 1967: *Canon Law Digest* 6 (1963-67); reprinted by CLSA (Washington DC, 1994) 611.

according to the location of the delict of joining a Masonic Lodge within Book V of the Code, it is considered a crime against the authority of the Church. Yet in different places around the Code, we find Masons consistently grouped among those who commit the gravest crimes against the faith; apostates, heretics, and schismatics, and not among manifest grave sinners or those guilty of lesser crimes against authority. The canons pertaining to marriage consider a Mason to be of the same order of danger to the faith of a Catholic as an apostate. There is solid canonical argumentation for considering the Masonic oath to constitute a graver offence than an explicit act of heresy.

Examination of other societies which can be considered as of a similar nature to Masonry within the context of canon 2335, especially the Communist party, suggests an even more interesting canonical argument. To join a society which falls under the delict of canon 2335 is to incur the excommunication, simply reserved, provided by that canon. However; it is possible for a single action to have multiple consequences and even to constitute the commission of more than one delict. In the case of one who joins the Communist party, it is the clear consensus of learned opinion that this comes under the provisions of canon 2335. At the same time, the Holy Office expressly stated that profession or endorsement of the beliefs of the Communists incurs the delict of

apostasy of canon 2314; the act of giving one's name is certainly an external act of profession or endorsement.

Analogously we may posit that, while the act of joining the Lodge is plainly the delict of canon 2335, participation in the rituals associated with the various degrees of Masonry, beginning with the rite of Entered Apprentice, explicitly endorses Masonic beliefs, which are themselves condemned, and implicitly rejects various aspects of the Christian faith.

If we are able to understand that canon 2335 concerns the act of joining, that is of assuming membership, only and does not encompass the full import of the acts necessary to join a Masonic Lodge, that is the ritual participation, we can readily see: not only is it possible that this ritual participation can constitute the commission of further delicts, but it is only right that their content be so evaluated.

Chapter IV

Ancient and Modern: Masonry and the 1983 Code of Canon Law

Introduction

The course of the twentieth century saw profound changes in almost every aspect of human society. As the fruits of the industrial revolution sufficiently embedded themselves, they led to an almost universal rise in living standards across the developed world and the emergence, for the first time, of a stable middle class. At the same time, the ravages of mechanized warfare, and the genocidal tyranny of first National Socialism and then Marxism-Leninism stained a century of progress with the blood of unreckonable millions. It was, as was said of an earlier period; the best of times, it was the worst of times. The Church, ever sensitive to the needs of the times and mindful of the urgency of her ministry, both inwardly to the faithful and outwardly to the world, did not isolate herself within the walls of tradition but responded, as we know, by considering how she might most effectively reorder herself to meet the demands of a new age.

Vatican Council II ushered in a new way of thinking in the Church regarding almost every aspect of ecclesiastical life, tradition and legislation. The revision of the 1917 Code of Canon Law was announced, by Pope St John

XXIII, concurrently with the Council, though it was decided to delay the project until after the Council's conclusion.¹

All aspects of canon law would be informed by the great conciliar documents and the mind of the Council Fathers and guided by certain principles of reform. The penal law of the Church would be subject to special scrutiny and revision, and become the locus of considerable debate on the very nature of how the Church exercises authority, and of the means and ends of canon law itself. Regarding the specific issue of the canonical prohibition of Catholic membership of the Freemasons, a number of these conciliar currents of thought came together to create an unfortunate climate of enthusiastic confusion, which gave rise to questions regarding the contemporary force and future fate of canon 2335. The principles which guided the canonical revision process, in particular the impetus for more subsidiarity in decision making, and the new and enthusiastic desire to engage with those outside the Church, were fuelled by initially mixed signals from Rome before being the subject of more explicit clarification.

To this day there remain those who argue that a proper reading of the new Code of Canon Law should, if not admit the possibility of Catholic Masonic membership, at least not consider it excluded *ipso iure* by the text of the relevant canon.

¹ John XXIII, *Primus Oecumenici Nuntius*, 25 January, 1959: AAS 51 (1959) 65-69.

This chapter will examine the general principles of reform which guided the revision process of the Code of Canon law, and penal law in particular. It will also consider how the initial confusion regarding the endurance of the provisions of canon 2335 of the 1917 Code came to be and what measures were taken to clarify it, including the discussions and events which formed the eventual text of the new canon. It will then turn to examine the actual wording of canon 1374 of the 1983 Code of Canon Law in the light of canonical tradition and its current application, and conduct a brief survey of contemporary thought and commentary on the matter.

Principled Reform

Despite its relative youth, by 1959 there was broad consensus that the 1917 Code needed profound revision. It is not to be doubted that the work of Cardinal Gasparri represents perhaps the most impressive work of legal collation and synthesis since the codification of Roman law under the Emperor Justinian. It was a body of law which necessarily drew upon 26,000 citations from ancient law, 8,500 from Gratian's *Decretum* and papal Decretals, 1,200 from various Ecumenical Councils, 4,000 from Apostolic Constitutions, 11,000 references to documents from the various curial congregations, and 800 liturgical books.² The result, while juridically

² Pietro Gasparri, *Codicis iuris canonici fontes*, 9 vols. (Rome: Typis Polyglottis Vaticanis, 1923-1939). Computation of sources from: Julián Herranz, "Genesis and Development of the

admirable, was a code which contained many legal provisions which quickly became obsolete. The Code, intended as it was to be an holistic synthesis, did not lend itself to the constant process of minor revision which would have been necessary to accommodate the development of entire new sections of law, such as the growth in number and diversity of associations of the faithful.³ Similarly, when the legal praxis began to run contrary to the provisions of the law, for example in the normalization of the granting of dispensations for certain minor impediments to marriage, it also began to undermine the integrity of the entire system. Furthermore, in the ordinary course of governance, individual norms had been modified or abrogated and this was not reflected within the text of the canons, militating against the purpose of a codified system. In addition to these circumstances, which were known before the announcement of St John XXIII, Vatican Council II famously brought about a *novus habitus mentus*, and with it a new understanding of how governance should be exercised in the Church. This demanded a complete revision of the Code to ensure that it not only provided the necessary legal framework for the functioning of the Church as an

New Code of Canon Law,” *Exegetical Commentary on the Code of Canon Law*, English language edition ed. Ernest Caparros et al. (Chicago & Montreal: Midwest Theological Forum and Wilson and Lafleur, 2004) 1:126.

³ Ibid. 127.

hierarchical institution, but also, as far as possible, embodied the ethic of the Council.

The Commission which would effect this grand process of revision elected to tackle the project in sections and was divided into ten working groups, each of whom would consider a different portion of the law. While, as we shall see, each *coetus* would develop its own methodology for proceeding, the entire process was loosely proposed to be guided by certain principles agreed upon by a central committee of consultants, headed by the president of the Commission, Cardinal Felici.⁴ Of these ten guiding criteria, three in particular would most closely inform the work of the *coetus* handling the revision of penal law.

The first of these is the principle of positively affirming of the office of bishop. A characteristic of the 1917 Code, and of Church governance at the time, was that most legal authority, to legislate, dispense, determine, and innovate, was reserved to the Holy See. Very little was accorded to the diocesan bishop *ex officio*, rather it would be delegated to him by the Holy See, either in particular cases or stably. Vatican Council II called for a better articulation of the dignity and role of the diocesan bishop, and for the revised Code to embody the concept of a general power of competence to form

⁴ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Communicationes*, 1 (1969) 77-100.

particular legislation and dispense from general laws, unless they were explicitly reserved to the Holy See.

The second criterion of interest, of which the first is something of an expression, is the principle of subsidiarity.⁵ This principle holds that, whenever possible or appropriate, decisions should be taken at the most local level. This strengthens the ties between authority and those being governed and ensures that, in the case of legislation, norms are as suited as possible to the circumstances of time, people, and place. In addition to being more responsive and effective, this also serves the higher ends of justice, seeking to limit the extent to which people are burdened with inappropriate or irrelevant laws. Within the context of the Code revision process, this meant that great emphasis should be placed on the role of particular legislation. Universal law would focus on procedure and general norms, ensuring the protection of rights and the integration of the institutional Church.

The third criterion for our consideration, which treats penal law directly, is the express principle that penalties should be kept to a minimum. Where penalties were to be imposed, they should generally be imposed *ferendae sententiae*, that is imposed by the authority by a process, rather

⁵ It must be noted that subsidiarity, while present in the mind of Vatican Council II and referenced by various canonical commentators, is proper to the social teaching of the Church and is not a canonical principle; it is therefore only useful in that it offers context for the reform process and must not be treated as a binding rule of reform or set principle of interpretation.

than *latae sententiae*, that is automatically incurred by the commission of a delict, which should be restricted to the smallest possible number of cases.

As Green notes, the inclusion, by the Commission for the revision of the Code, of our third principle of reform (their ninth) on penalties, implicitly reaffirms the continuing need for penal law in the Church.⁶ The *coetus* on penal law met nine times between 1966 and 1970, at which time they arrived at their first draft, or *schema*, of what was eventually to become Book VI of the 1983 Code of Canon Law. This would be sent, in an only slightly amended to form, to all the bishops of the world for review in 1973. The subsequent work of the *coetus*, leading to the eventual formulation of Book VI, was primarily focused on the digestion of the feedback which they received to this draft.

While the purpose of the principles of reform was clear, regrettably there was not always clarity in the direction and intentions of the revision process. As the work of the Commission stretched across decades, and as bishops and canonists reviewed sporadic and piecemeal sections from the various *coeti*, there began to form various, conflicting, notions of what the eventual penal law of the Church would look like and, increasingly, what, if any, efforts should be made to continue enforcing the more rigorous,

⁶ Thomas Green, "Contemporary Penal Law Revision," *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. (New York/Mahwah, NJ: Paulist Press, 2000) 1531.

comprehensive, and penalty laden provisions of Book V of the 1917 Code, which was still, technically, in force.

Regarding our specific concern for the canonical prohibition on Masonic membership, as has already been seen, questions around the universality of the ban had already been asked, by canonists both under and before the 1917 Code. Now, with the conciliar mandate to be more locally engaged, less disposed to punish, and sensitive to particular circumstances, we can readily apprehend the potential for problematic, and erroneous, assumptions. While the Holy See would be asked to clarify the subject more than once, the responses often raised more questions than they answered. As the work of the penal *coetus* continued, debate over the inclusion of a delict for Masonic membership would become so hotly contested that it would be offered for debate by the plenary session of the Commission itself.⁷

False and Tendentious Interpretations

It is possible to say, without overstatement or oversimplification, that Vatican Council II fundamentally altered the way in which the Church engaged the world. There was to be, for lack of a better way of succinctly phrasing it, a shift from dialectic to dialogue. This was to apply not only to

⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em. mis Atque Exc. mis Patribus Commissionis as Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Vatican City: Typis Polyglottis Vaticanis 1981) 303.

the relationship of the Church with the schismatic churches and other heretical ecclesial communities but also to those completely outside of the Christian tradition and even religion itself. In the years following the Council, constructive engagement was the order of the day and dioceses and bishops' conferences sought to reach out to different communities and dialogue with them.

This impetus to speak with even those groups who had been previously (and properly) considered as antagonistic to the Church, such as atheists, led some bishops' conferences to wonder aloud if they should not also reach out to their local Masonic Grand Lodges as part of the wider work of post conciliar engagement. Others, putting into practice the conciliar *shibboleth* of subsidiarity, went so far as to make a determination for themselves regarding the character of their local Lodge and to reconsider the Church's clear canonical ban on membership in the light of their own discretion and even to give permission to join the Lodge, in individual cases, if the Lodge was deemed not to be antagonistic. The first to do this was the bishops' conference of Scandinavia in October 1966, followed by the bishops' conference of England and Wales.⁸ Shortly after this, in 1969, a twelve-strong group of Catholics and Masons met in Innsbruck, with the knowledge, and at least tacit permission, of Cardinals Šeper and König, the respective pro-

⁸ Ronny Jenkins, "Catholic Membership in Freemasonry," *The Jurist* 56 (1996) 739.

Prefect of the Sacred Congregation for the Doctrine of the Faith and the President for the Secretariat for Non-Believers. This commission, which neither cardinal attended, resulted in the eventual publication of the so-called “Lichtenau Declaration” of 1970. This document stated that the Masons did not claim to be a religion, nor did they espouse a common religious doctrine, nor seek the dispossession or overthrow of the Catholic Church as an institution, nor to undermine the secular state. As such, they concluded:

We are of the opinion that the papal bulls concerning Freemasons are now only historically significant and are no longer relevant to our time. We are of the same opinion regarding the condemnations of ecclesiastical law since, in the light of what has been said, they cannot be justified by a Church that follows God's commandment in teaching fraternal love.⁹

This declaration, which dismissed centuries of Church teaching and discipline, though much of which was under a century old, raised a number of questions. In the first place, it would seem only natural to question the wisdom of a joint declaration, which rather boldly assumes a significant degree of commonality with a group still very much condemned by the

⁹*Lichtenauer Erklärung zum Dialog Katholische Kirche und Freimaurerei*, 5 July, 1970: “Wir sind der Auffassung, daß die päpstlichen Bullen, die sich mit der Freimaurerei befassen, nur noch eine geschichtliche Bedeutung haben und nicht mehr in unserer Zeit stehen. Wir meinen dies auch von den Verurteilungen des Kirchenrechtes, weil sie sich nach dem Vorhergesagten gegenüber der Freimaurerei einfach nicht rechtfertigen lassen von einer Kirche, die nach Gottes Gebot lehrt, den Bruder zu lieben.” Quoted from: Kurt Baresch, *Katholische Kirche und Freimaurerei* (Vienna: Österreichischer Bundesverlag, 1983) 73. Translation from Jenkins, 740.

Church. We are also left to question why the Catholic representatives on the commission felt able to take the assertions of the Masons at face value and not demonstrate at least some critical reserve. Given the historical anathemas of the various popes and the self-evident tendency of the Masons towards secrecy, it must strike us as curious that the assertions of the Masonic delegation were treated with such good faith.

We must also marvel at the presumption of the authors of the declaration. Despite their distinctly local engagement and limited period of dialogue, they felt themselves competent to dismiss the universal canonical discipline then in force. The declaration further did not address the central objection of the Church, through the centuries, to Masonry: that its very nature promoted religious indifferentism and a relativistic and secondary understanding of membership in the Church, the Body of Christ. This, as we have seen in the previous three chapters, is what was always considered to constitute a plot against the Church by Masonry and was the primary reason for the prohibition of Catholics joining the Lodge.

The Lichtenau Declaration marks the full emergence of a new school of thought for the interpretation of the meaning of *machinantur* in canon 2335 of the 1917 Code of Canon Law and previous papal bulls regarding Masonry. The grammatical understanding of the canon is warped to mean that the prohibition regards only Masonic societies, and those similar to them, presumably in rite and ritual, which actively plot against the institutional

Church, rather than Masonic societies and those similar to them in that they, by their nature, constitute a plot against the Church. No account is taken of the various societies which, while entirely dissimilar to Masonry in every regard except their religious indifferentism or atheism, have been clearly held to come under the “similar nature” provision.¹⁰

The situation was thrown into further confusion by the release of the 1973 *schema* on penal law to appear in the new Code of Canon Law.¹¹ This first draft of what the new code might look like did not include any mention of Masonry, nor did it even retain a delict of joining societies which plotted against the Church. The *coetus* working to reform the penal law of the Church had diligently sought to apply the guiding principles of the Code revision Commission.¹² A clear direction for the reform of penal law in the Church was to reduce, whenever possible, the number of penalties generally and especially those imposed *latae sententiae*, leaving this for only the gravest offences. Where a penalty was to be included, it was to be imposed through a process (*ferendae sententiae*).¹³

¹⁰ The discussion of the proper understanding of *machinantur* and *eiusdem generis* in canonical tradition is treated in greater detail in chapters I and III.

¹¹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema documenti quo disciplina sanctionum seu poenarum in ecclesia latina denuo ordinatur* (Vatican City: Typis Polyglottis Vaticanis, 1973).

¹² *Communicationes* 1 (1969) 77-100.

¹³ *Communicationes* 6 (1974) 33.

Seen in this light, it is, perhaps, understandable that the first draft of the new penal law should take a reductionist approach as a starting point, allowing the work of the Commission to focus on adding only those delicts which were deemed necessary, rather than debating each individual delict of the 1917 Code, and whether it might be eliminated or must be retained. Whatever the intention behind the omission of any reference to Masonry in the 1973 *schema*, the total disappearance of a subject which had been addressed by eight separate canons in the 1917 Code¹⁴ could not pass unnoticed and was bound to give rise to vigorous debate and more than a little confusion.

Following the actions of the bishops' conferences of Scandinavia and England and Wales, together with the opinions expressed in the Lichtenau Declaration, many bishops understandably saw the 1973 *schema* as a confirmation that the ban on Catholic membership of the Lodge had been lifted. There was considerable uncertainty in dioceses as to whether canon 2335 was still in force at all, or if the bishops' conference, or even the bishop himself, was able to declare Masonic membership to be permissible in a given territory or regarding specific Lodges. While some acted on assumed conclusions, many communicated their questions to what was then the

¹⁴ See: canons 2335; 2336; 1240 §1, 1°; 1065 §1; 542 §1; 693 §1; 1453§1; *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus* (Rome: Typis Polyglottis Vaticanis, 1917).

Sacred Congregation for the Doctrine of the Faith¹⁵ and asked for clarification on the status of the canonical prohibition of Masonic membership. The response which was sent, in fact, made the confusion worse.

On 19 July 1974, Cardinal Šeper issued a letter, ostensibly in response to Cardinal Krol of Philadelphia¹⁶, but copied to numerous other individual bishops and conferences who had also asked for clarification on the enduring force of canon 2335.¹⁷ In it, Šeper states that, having been asked by so many bishops, the Congregation has considered the proper interpretation of the penalty of excommunication for Catholics who join Masonic associations and consulted with various bishops' conferences, resulting in many different responses born from different circumstances around the world. The letter notes that, until the publication of the new Code, the law has not changed and canon 2335 remains in force. It also, however, offers some thoughts on its proper application, stating that "In particular cases, however, we must keep in mind that it is to be held that penal law is subject to strict

¹⁵ It is interesting to note that the Congregation for the Doctrine of the Faith is always considered the competent dicastery and the issue of Masonic membership treated as a matter pertaining to faith and morals, rather than a merely legal, disciplinary matter.

¹⁶ Krol was, himself, a member of the Commission for the Revision of the Code of Canon Law. He can, therefore, be assumed to have a fairly informed perspective on the subject, his confusion and deferral to the SCDF is thus even more suggestive of the confusion surrounding the issue.

¹⁷ The letter was not intended for public release and was not published in its own right. The full text of the letter was subsequently included as note 1 in the publication of a second letter clarifying its meaning and interpretation: *Sacra Congregatio Pro Doctrina Fidei, Declaratio*, 17 February 1981: AAS 73 (1981) 240.

interpretation.”¹⁸ This being the case, the canon and its penalty may be understood to apply only to those lay Catholics who join those “associations which really plot against the Church,”¹⁹ while clerics and religious are always prohibited from joining Masonic associations.

The phraseology of this response proved disastrously unclear. By treating clerics and laity separately and by only explicitly saying “Masonic associations” when referring to clerics, we are left with the possibility of various, contradictory, understandings. One way of reading the letter, informed by an understanding of the origins of the canon itself and its terminology, could be read to mean that lay people are only subject to the penalty if they join associations which really represent a plot against the Church (as we know Masonry does) - Šeper does not say *Masonic* associations which really plot against the Church. Another way of reading the letter was to understand that there is a new canonical meaning of *machinatur* which specifically meant how an association, Masonic or otherwise, acted in relation to the institutional Church, thereby rejecting Leo XIII's clear insistence that Masonry was to be judged by the beliefs which it held, not the actions it undertook.²⁰

¹⁸ Ibid: “In considerandis autem casibus particularibus prae oculis tenendum est legem poenalem strictae subesse interpretationi.”

¹⁹ Ibid: ...” associationibus quae revera contra Ecclesiam machinantur.”

²⁰ Leo XIII, encyclical letter *Humanum genus* §11, 20 April 1884: ASS 16 (1884) 420: “Quia Massonicum foedus non tam est ab actis perfectisque rebus, quam a sententiarum summa iudicandum.”

The letter was generally interpreted to mean the latter of the two possible interpretations, with many assuming that it was now left to local authorities to judge for themselves if a particular Lodge *really* plotted, or not, against the Church and to then give permission, either in individual or general cases, for a Catholic in that territory to join it. It was this interpretation which gave rise to the enormous pastoral problem in the American Church created by the large numbers of Catholics who joined the Masons in good faith and with at least the tacit permission of their local bishop. This problem was later recognised in the report on Masonry and the Church in America by the National Conference of Bishops' Pastoral Research and Practices Committee.²¹

Towards Clarity

The legal confusion which had been created by the absence of a delict for membership of either the Freemasons specifically, or prohibited societies generally, in the 1973 *schema*, together with the considerable license being taken in some territories in interpreting the letter from Cardinal Šeper, did not pass unnoticed. The emergence of two distinct schools of thought regarding Masonry, those who thought a universal ban was merited and those who argued for a relativistic approach, resulted in the proposal for the re-inclusion of a canon dealing with prohibited societies, suggested by the

²¹ Pastoral Research and Practices Committee Report, "Masonry and Naturalistic Religion," *Origins* Volume 15/6 (27 June 1985) 83.

Sacred Congregation for the Doctrine of the Faith, and present in the revised proposals of the 1977 session of the *coetus* for penal law. It was proposed that the canon should sanction those who join societies which plot against the Church but be generally phrased so as to neither explicitly include nor exclude Masonry by name. This was intended to include those associations which, in their ritual or their purposes, “really” plotted against the good of the Church and would leave space for further provisions of particular law to address the circumstances of different places or specific societies.²²

As we have seen in the second chapter, even the basic initiation rituals of Blue Lodge Masonry, common to every rite and country, involve an at least tacit renunciation of the efficacy of one's baptism through the assertion that one has been “long walking in darkness” and now “seeks the light that only Masonry can bring”,²³ while the higher degrees of the Scottish Rite, prevalent in both America and Great Britain, areas of supposedly benign Masonry, involve explicit denunciations of the pope and the Catholic Church, for we

²² *Osservazione della S.C.D.F.*: 17: “qui nomen dant associationibus quae contra Ecclesiam machinatur (cf c. 2335): in formulatione generica huius delicti non includeretur expresse secta masonica, sed neque excluderetur. Canon eidem applicaretur si et quatenus ipsa vel aliquis ex ipsius ramis vel ritibus reapse machinaretur contra bonum Ecclesiae; aliae specificationes statui possunt in iure particulari, iuxta diversa adiuncta locorum et associationum.” Taken from Pontifical Commission for Interpretation of Legislative Texts, *Acta et Documenta Pontificiae Commissionis Codici Iuris Canonici Iuris Canonici Recognoscendo: Congregatio Plenaria (Diebus 20-29 octobris 1981 habita)* (Vatican City: Typis Polyglottis Vaticanis 1991). See also Ángel Marzoa, “Commentary on Canon 1374,” in *Exegetical Commentary* 4/1, 482.

²³ See chapter II, note 78.

know from Albert Pike that Masonry “was at its very origin devoted to the cause of opposition to the tiara of Rome.”²⁴ Therefore we might properly include all forms of Masonry, and certainly the higher degrees of the Scottish and Yorkish rites, within the parameters set out by the 1977 working session of the *coetus* for penal law and recognise that, just as American bishops had for years needed to seek clarification from the Holy See on various quasi-Masonic associations like the Oddfellows and de Molay, many local groups might be found to come under the provisions of the ban according to particular law.

Taken with an understanding of the history and rituals of Masonry, as well as the Church's understanding and canonical use of the term *machinatio*, this revised formulation would have recognised the principles of the Code revision process by removing the *latae sententiae* excommunication and providing space for particular law to recognise local circumstances, while still implicitly maintaining the universal ban on Catholic membership of the Lodge. The proposed wording for the canon, which can be found in the 1980 schema,²⁵ did indeed closely resemble the eventual formula used in canon 1374 of the 1983 Code. Another key development in the new *schema* was

²⁴ Albert Pike, *Morals and Dogma of the Ancient and Accepted Scottish Rite of Freemasonry* (Charleston: Supreme Council of the Thirty-Third Degree for the Southern Jurisdiction of the United States, 1881) 776.

²⁵ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici* (Vatican City: Libreria Editrice Vaticana, 1980) 298.

that, while it did remove the explicit mention of Masonry and the automatic penalty of excommunication, it introduced, or rather reintroduced, the distinction between joining a prohibited society and leading or promoting such a society. This brought back the important distinction in the law between the different levels of culpability for those who may have joined the society either deceived or ignorant of its true or higher nature and intentions, and those responsible for drawing others into the society and leading its efforts against, in whatever way, the Church, while maintaining the delinquent character of both.

The years 1980-81 were, for those concerned with the canonical future of the ban on Masonic membership, an action packed time. At the same time as the revised *schema* was being prepared, the bishops' conference of Germany published a report on Freemasonry following an extensive six year series of talks with a group representing the Grand Lodges of Germany.²⁶ These talks, which took place between 1974 and 1980, were by far the most extensive and thoughtful engagement by members of the Church hierarchy and the Freemasons to take place since the Council. Rather than producing a joint statement like the Lichtenau Declaration, both the bishops' conference

²⁶ German Freemasonry was reintroduced at the end of the Second World War by the American Lodges and so operates a similar system of Federated Grand Lodges. That modern Freemasonry in both Germany and Italy owes much of its existence and structure to the American Lodges somewhat undercuts the argument for a canonically relevant distinction between American and European Masonry.

and the Masons produced their own frank conclusions. The document issued by the German bishops examined twelve issues which showed how Masonry remained at odds with the beliefs of the Church and which could not be overlooked. These included that: the Masonic world view and concepts of truth and religion remain totally relativistic; the understanding of God in Masonry remains deistic and excludes Divine revelation; the Masonic principles of toleration and equivalency among faiths continue to promote religious indifference in members; Masonic rituals and spirituality have a clear sacramental character and are seen to be higher and purer than those of a Mason's personal religion; Masons believe and promote the sufficiency of Masonry alone for the perfection of mankind, excluding and denying the necessity of Christ for the salvation of mankind and the unique power of Baptism and the other sacraments; the notion of supposed "Christian Lodges" is a fiction, for, even when they are not explicitly deistic or atheistic, so-called Christian Lodges actually only adapted Christianity to Masonry and never the other way round. The document concludes that:

The Freemasons have essentially not changed. Membership places the foundations of Christian existence in question. Detailed investigation of the Masonic rituals and fundamental ideas, and of their current, unchanged self-understanding make clear: *Simultaneous membership in the Catholic Church and the Freemasons is incompatible.*²⁷

²⁷ "Die Freimaurerei hat sich in ihrem Wesen nicht gewandelt. Eine Zugehörigkeit stellt die Grundlagen der christlichen Existenz in Frage. Die eingehenden Untersuchungen der freimaurerischen Ritualen und Grundüberlegungen, wie auch ihres heutigen unveränderten

This stark assessment of the continued diametric opposition of Freemasonry to the teaching and practice of the Church was the fruit of six years of careful dialogue and consultation which carefully weighed the public works of charity practiced by many of the Lodges, and the desire of some Catholics and Masons for closer collaboration, with the much more important underlying philosophy and practice of Masonry and the place it was meant to occupy in the life of the Mason. It was not, in short, a reactionary or summary rejection of a change in the canonical discipline, but the considered conclusion of thoughtful study. The work of the German bishops would rightly be much discussed and given particular weight in the formulation of what was to become canon 1374.

Closely following the publication of the findings of the German bishops' conference, Cardinal Šeper issued a declaration clarifying his earlier letter on Masonry and the continued force of canon 2335 of the 1917 Code. This new document, dated 17 February 1981, was radically different in tone and left little room for confusion. In it, he bluntly labelled the common interpretation of his 1974 letter to mean bishops' conferences, or individual bishops, had the

Selbstverständnisses machen deutlich: *Die gleichzeitige Zugehörigkeit zur Katholischen Kirche und zur Freimaurerei ist unvereinbar.* "Erklärung der Deutschen Bischofskonferenz vom 12 Mai 1980 zur Frage der Mitgliedschaft von Katholiken in der Freimaurerei," *Archiv für katholische Kirchenrecht* 149 (1980) 164-165; emphasis in original. Translation and original citation from Jenkins, 741.

power to determine which Masonic associations really plotted against the Church as “false and tendentious”²⁸ and made clear that his earlier comments on the strict interpretation of penal law was a general principle of legal interpretation intended for use in individual cases in which the law might be mitigated for a particular reason in a particular case.²⁹ It was emphatically not meant to be understood as an abrogation of the penalties of canon 2335 which remained very much intact and in force until the promulgation of the new Code; nothing had changed regarding the current canonical discipline. While this declaration was useful as a tool for retrospective clarity, the latitude which had been taken under the false interpretations of the 1974 letter ensured that the current debate contributing to the new Code was indeed very much still alive. This was about to be influenced heavily by outside events.

Since the suppression of the Lodge by Mussolini and its re-foundation, with the help of American forces following the Second World War, Masonic Lodges were permitted to exist in Italy provided that they deposited the names of members with the Department for Justice. While some Lodges did in fact do this, how many did not comply is something for which we have no hard data, for obvious reasons. We do know that at least one Masonic Lodge

²⁸ Sacra Congregatio Pro Doctrina Fidei, *Declaratio*, 17 February 1981: AAS 73 (1981) 240: “falsis et captiosis.”

²⁹ Some such cases were considered at length in chapter III.

did not comply and would come to be one of the greatest scandals in Italian political history, the effects of which are still very much in dispute today. In March 1981, the Italian police raided the home of Italian businessman Licio Gelli, whom it was found was the Venerable Master of the Masonic Lodge *Propaganda Due*, or P2.³⁰ Among his papers they found the membership list of P2 which included 962 names, among them were: state officials; members of the Italian parliament; senior army and naval officers; the heads of all three intelligence services; the heir to the Italian throne; and a then little known businessman named Silvio Berlusconi. The resulting scandal, which began as an investigation into the collapse of a Milanese banking house, partly owned by the Holy See's Institute for the Works of Religion, and the murder of its president, Roberto Calvi, brought down the government of the day in Italy.³¹ It would be hard to overstate the likely impact this would have had on those drafting the revised Code when considering the issue of Masonic membership.

³⁰ "Propaganda" stems from "Propaganda Massonica" which was one of the first Lodges founded in Italy following the *Risorgimento*. Following the reformation of Italian Masonry after the war, all the Lodges were numbered by the Grand Orient of Italy, P2 was correspondingly the second Lodge.

³¹ Without wishing to digress into conspiracy theories, it should be noted that Calvi's body was found hanging from Blackfriars Bridge in the Temple district of London. The members of P2 referred to each other in seized documents as *frati neri*, while the Temple district of London is named after the historic location of the London house of the Knights Templar. Calvi's pockets had been filled with pieces of masonry.

With the heady confluence of the findings of the German bishops, the renewed clarity from the Sacred Congregation for the Doctrine of the Faith, and the explosion of Masonry into the civil affairs of Italy, it is unsurprising that several of the consulters, both on the penal *coetus* and the Commission, began to propose a return to the clear and forthright language of canon 2335 and call for its inclusion in the new Code.

Cardinal Oddi proposed a virtually unchanged canon which would have preserved the explicit mention and prohibition of Masonry and the automatic excommunication reserved to the Holy See.³² In the end, it was decided by the penal *coetus* that the issue of the canonical prohibition of Masonry be discussed, in its entirety, by the pending plenary session of the Code Revision Commission, due to be held later in 1981. In the documentation and opinions which were eventually sent to the plenary session, the *coetus* expressed a number of interesting thoughts which would be debated and which should be considered as offering a proper understanding of the thinking behind the wording of canon 1374 in the 1983 Code.

The consulters unanimously agreed that the prohibition of Masonry should not carry a *latae sententiae* penalty of excommunication and they gave the reasons for their thinking. They pointed out that the grave

³² *Relatio Complectens Synthesim Animadversionum*, 303: "Sequentem textum proponit Card. Oddi: Qui nomen dant sectae massonicae aliisque consociationibus quae contra Ecclesiam machinantur, contrahunt ispos facto excommunicationem Sedi Apostolicae reservatam."

incompatibilities of Masonry with the Catholic faith, as detailed in the German bishops' conference report, assume the commission of the delict of heresy, in which case the penalty of excommunication is provided for by that delict in what is now canon 1364 in the 1983 Code.³³ If the beliefs of some similar association do not rise to the level of heresy, it does not merit the gravest penalty.

The *coetus* then goes on to define plotting (*machinationem*) as practical activity, which is manifestly different in different places but never any more oriented against the Church than Communism; they note membership of the Communist Party does not carry the penalty of excommunication.³⁴ This observation is problematic because, as we have seen, it was the clear opinion of the Holy Office that membership of the Communist Party, and the support or defense of its atheistic beliefs, in fact amounted to apostasy and did incur the penalty of excommunication.³⁵

The separation, by the *coetus*, of what Masonry believes from what it does, with the latter being termed the action of plotting, while still recognizing the essential need to consider and possibly sanction both aspects, offers an interesting proposition. As we have seen in previous chapters, there

³³ *Relatio Complectens Synthesim Animadversionum*, 303: "Nam incompatibilitas cum fide catholica vel incidit in haeresim et tunc cadit sub can. 1316 vel non, et tunc non meretur tali gravissima poena."

³⁴ *Communicationes* 16 (1984) 48-49.

³⁵ Holy Office, *Decree*, 1 July 1949: AAS 41 (1949) 334.

is no question that the canonical use of *machinatio* in reference to Masonry historically referred to the deistic and relativistic beliefs which it held and insisted on in its members. The plot was one of *being*, not of *acting*. The considerations offered by the *coetus*, in this sense, offer a clear break with canonical tradition and understanding. Nevertheless, they clearly reiterate that the beliefs of Masonry, which are universal and not relative to different places, are themselves worthy of censure but, considering the nature and content of Masonic ritual and practice, can properly be understood as heretical and incur the penalty provided for that offence. The function of the canon under consideration is both to provide against the actions of Masonic societies, whose beliefs are dealt with in another canon, and to act against those societies which present a threat or plot against the Church but, unlike Masonry, are not so antithetical to the faith in their core beliefs as to qualify as heresy. This argumentation being sound, we are left to wonder if the assertion that membership of the Communist Party did not constitute a delict against the faith was made without awareness of the prior decision of the Holy Office.

Had the recommendations and rationale of the *coetus* been simply adopted by the October 1981 plenary session, and not the subject of much further debate, it is conceivable that we would have a much clearer conception of the mind of the legislator and not see the enduring, if often

peripheral, debate regarding the objective, rather than relative, canonical prohibition on Catholic membership of the Lodge.

A New Canon for a New Code

The last plenary session for the Commission for the Revision of the Code of Canon Law met between 20-29 October of 1981. It was during their third session, on 22 October, that the Commission considered the question of Masonry and canons 2335 of the 1917 Code, 1326 of the most recent *schema*, and what would become 1374 of the new Code. This was the fifth question which the Commission would consider. The question was put to the Commission thus: should canon 1326 of the *schema* be altered to include both the explicit mention of Masonry and the automatic excommunication which were to be found in c. 2335 of the 1917 Code, or was the draft text of the *schema* sufficient?

The debate was closely contested with many of the participating members citing the work of the German bishops' conference. Cardinal Siri, in his contribution, neatly summarized the thinking of those in favor of a return to the more explicit formula, and sterner penalty, of the 1917 Code. In voting for the re-adoption of the 1917 formulation, he stated that, as the work of the German bishops had concluded,

To the first part of the question I say: Yes. Practically nothing has changed in the operation of the Masonic sects. If the argument against [reverting to the old wording] is

that the authority (Pope Paul VI) said that penalties are to be reduced, I think the answer is: We in this consultation should deal with those things which are suited to the times. There is a grave risk [by removing the explicit mention of Masonry and the penalty] of introducing, into the clergy that the Church has a new way of thinking and acting [about this matter]. To the second point [the sufficiency of the *schema* formulation]: No. I agree with the arguments proposed by the German bishops' conference, as I have said.³⁶

Cardinal König typified the opposing response when he said:

The text of canon 1326 of the *schema* is sufficient because it also, in the first part at least, includes Masonic sects in so far as they plot against the Church. The new text of the *schema*, which speaks of an imposed penalty, is a way of proceeding which is in accordance with fundamental lines of penal law. Excommunication *latae sententiae* is to be restricted to a few of the most grave delicts. This new law observes this principle. The argument of the German conference is of value perhaps for some regions but not for all.³⁷

König went on to cite the 1974 letter from Cardinal Šeper, which highlighted the great diversity of circumstances in different regions, and argued for local authorities to be given the power to decide if a Masonic sect

³⁶ *Congregatio Plenaria*, 315: "Ad primam partem dubii respondeo *Affirmative*. Rationes: Nihil practice est mutatum in modo procedendi sectae massonicae. Si obicitur antea ex auctoritate (Paulo VI) dictum esse poenas reducendas, respondendum duco: Nos in consulendo debere ea agere quae huic tempori sunt accommodata. Periculum grave inducendi in clericos ut aliter in Ecclesia sentiant et agant.. Ad secundam partem: *Negative*. Consentio in quae Conferentia Episcopalis Germanica in hoc argumento proposuit. Dixi."

³⁷ *Ibid*, 316: "Textus canonis 1326 schematis sufficit quia in eo etiam, quoad primam partem saltem, secta massonica includitur et in quantum contra Ecclesiam machinatur. Novus textus schematis, qui loquitur de poena ferenda, est modus procedendi qui concordat cum linea fundamentali iuris poenalis. Excommunicatio latae sententiae ad pauca et gravissima delicta restringatur. Novum ius poenale tale principium observat. Argumentum Conferentiae Germanicae fortasse pro diversis regionibus sed non pro omnibus valet."

deserves to be included under the provisions of the new canon. In effect, he argued for the very false and tendentious interpretations which Cardinal Šeper himself had so recently denounced. Perhaps unsurprisingly, Šeper felt the need to intervene and stress the importance of the issue. Those who said of the Masons “if they do not plot, it is possible for a Catholic to be a member” missed the point: if they did not seem to plot actively, it was because so many of the goals of their plot had already been accomplished. He observed, much as Leo XIII saw in his encyclical *Humanum genus*, that the greatest evils in secular society: civil marriage; divorce; abortion and similar things, both in Italy and across the world, were the fruits of Masonry. He in turn called for the new canon to retain the word Masonic but to drop the word *machinationem*, and so have the canon read as it was historically, and canonically properly, understood: Those who join Masonic societies, or those like them, in that they are opposed by their nature to the teaching of the Church and we could include communism in this category, should be punished.³⁸ Thus also removing the scope for the same false arguments, used against his 1974 letter, being recycled by the likes of Cardinal König.

³⁸ “Nunc multi dicunt apud nos 'non machinatur, ergo possunt catholici esse membra'. Hic debemus valde attendere. Hodie forsitan non tam machinatur quia iam satis machinabantur et non habent ad quid machinari... omnia quae in Italia hoc tempore facta sunt quoad matrimonium civile, quoad divortium, quoad abortum at quoad alias res sunt fructus massonici, et non solum in Italia sed etiam in aliis nationibus. Ergo res parvi non est momenti... Ergo haec est mea opinio: relinquere nomen massonicum, sed non relinquere machinationem, sed adhaerere ad id quod est fundamentum: ad ea quae aliena sunt a doctrina Ecclesia; tunc includitur etiam communismus in ista re.” Ibid, 317.

While the arguments went back and forth during the session, most of the focus remained on the power for local authorities to exercise some discretion, with some arguing that they should be able to include other societies under a strict ban on Masonry, and with others calling for bishops' conferences, or even diocesan bishops, to be given the powers which had been wrongly inferred by some as being included in the 1974 Šeper letter.

Considerable weight was attached by all parties to the work of the German bishops' conference; and much of the discussion hinged on whether or not it might be universally applicable; for no one disputed its conclusions with regard to the Masons with whom it had been in dialogue. There was not even much agreement on the removal of the *latae sententiae* penalty of excommunication, with many arguing that a penalty imposed for an action presumably undertaken in secret was unenforceable.

Notable by its absence from the debate was the assertion by the penal *coetus* that, regardless of any active plotting which a Masonic Lodge might engage in, membership of an association so profoundly antithetical to the Church's teaching would itself constitute heresy. This, we are left to infer from silence, was assented to by all. The key question seemed to be: would the removal of an explicit mention of Masonry encourage people to think the Church had changed her view on the matter, or was it a necessary step to avoid an overly strict interpretation and the inference that anything not

explicitly named in the Code was not prohibited, however contrary to the teaching of the Church it might be, such as Marxism?³⁹

While many supported retaining both the explicit mention of Freemasonry and the original penalty of the 1917 Code, when the matter came to be voted on the work of the *coetus* was accepted, including its distinction between the crimes of joining such an association and leading or promoting one. The new canon was to read:

A person who joins an association which plots against the Church is to be punished with a just penalty; however, a person who promotes or directs an association of this kind is to be punished with an interdict.⁴⁰

The intention behind the agreed final formulation was best put by Cardinal Felici in his closing remarks following the general discussion when he said that the language should reflect that the concern of the canon was not simply those who joined Masonic sects but “those associations which are against the faith, against the doctrine of the Church etc.”⁴¹

³⁹ See especially the contribution of Cardinal Palazzini. Ibid, 322.

⁴⁰ “Qui nomen dat consociationi, quae contra Ecclesiam machinatur, iusta poena puniatur; qui autem eiusmodi consociationem promovet vel moderatur, interdicto puniatur.” c. 1374, *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus [CIC]* (Vatican City: Libreria Editrice Vaticana, 1983). English translation from *Code of Canon Law, Latin-English Edition: New English Translation* (Washington, DC: CLSA, 1998). All subsequent English translations of canons from this code will be taken from this source unless otherwise indicated.

⁴¹ *Congregatio Plenaria*, 334: ...”iis qui pertinerent associationibus qui essent contra fidem, contra doctrinam Ecclesiae, etc.”

As has been discussed, there was some concern during the plenary session that if the explicit reference to Masonry was removed from the text of the new Code, this might, following from the confusion caused by the 1974 Šeper letter (its subsequent clarification notwithstanding), give rise to the erroneous assumption that the absolute ban on Catholic membership of Freemasonry had been, in some way, abrogated or left to the determination of local authorities. An holistic reading of the submissions of the *coetus*, and the debate of the plenary session, make it clear that this was never the intention. While Masonic Lodges in different parts of the world might present varying degrees of active machination against the Church, the very nature of Masonry has always been, and remains, so opposed to the faith and teaching of the Church as to constitute heresy for a Catholic. The intention behind removing the explicit reference to Masonry in the new canon 1374 was to allow for a broader inclusion of associations which might plot against the Church but which bore no similarity to Masonry in rite or ritual, with Marxism being explicitly highlighted by a number of the participants. There were, undoubtedly, those who were eager to see the Church ban on Masonic membership lifted and were prepared to interpret the new wording of the Code to suit this ambition. One such specimen was an article actually entitled “The Church's Ban Against the Freemasons has been Lifted.”⁴² This

⁴² Reinhold Sebott, “Der Kirchenbann gegen die Freimaurer ist aufgehoben,” *Stimmen der Zeit* 201 (1983) 411-421. Original citation from Jenkins, 746.

article offers a perfect example of the plain text assumption that, because the word “Freemasons” did not appear in the new code, they were not to be considered prohibited any longer, exactly the inference which had been feared.

Jenkins offers a comprehensive and succinct summary of the problems inherent in a plain text reading of the new Code of Canon Law when seeking to apply its canons to Masonry which could seem to give support to such a conclusion.⁴³ He rightly identifies that the two canons which might be thought to apply, 1374 (on prohibited societies) and 1364 (on heresy), each have their own difficulties without proper context. In the first case, canon 1374 leaves intact the word *machinatur*, which may, or may not, involve the propagation of beliefs against those of the Church and which may, or may not, only include actual subversion of the hierarchical institution. Furthermore, since both penalties provided by the canon have to be imposed, they are almost unworkable without access to Masonic membership registers. This is indeed the logical assessment of the canon absent the necessary context of the work and recommendations of the *coetus* and the articulated thinking of the Commission for the Revision of the Code in the October 1981 plenary session. From these, as we have seen, it is clear that it was never the intention of the legislator to lift the ban on Masonic membership. Instead,

⁴³ Jenkins, 747.

while underlining the incompatibility of Masonry with the Catholic faith, rising to the level of heresy, canon 1374 was drafted to recognise and provide against other, new, associations which did not resemble Masonry in their quasi-spirituality and ritual but which, as fruits of the Masonic ideology, advanced an agenda which was against the Church. The canonical repurposing of the term *machinatur*, from a plot of *being* to a plot of *acting*, should then be considered not accidental or born of historical ignorance, but deliberate, and expressly recognised and explained in the working of the *coetus*.⁴⁴

The Final Word?

In a concerted effort to avoid the same confusion upon the promulgation of the new Code of Canon Law which had greeted Cardinal Šeper's letter of 1974, the Congregation for the Doctrine of the Faith published a declaration concerning the enduring canonical ban on Catholic membership of Masonic Lodges.⁴⁵ Tellingly, it did so on 26 November 1983; the last day of the *vacatio legis* before the new Code came into force. The timing itself spoke of a desire to ensure that there could not be even a single day in which there was room for ambiguity about the proper understanding

⁴⁴ See notes 20 and 21.

⁴⁵ Sacra Congregatio pro Doctrina Fidei, *Declaratio*, AAS 76 (1984) 300.

of Masonry in the new Code. The declaration was very brief and essentially recapitulated the arguments and thinking discussed above. Expressly addressing the question of any change in the Church's decision in regard to Masonry in the new Code, stemming from the lack of the explicit use of the word 'Masonic', it makes clear: there has been no change in the Church's judgment. The omission of the explicit mention of Masonry in the Code was due to the editorial criterion which decided against a list which might be erroneously interpreted as taxative. Masonry, like many other associations likewise unmentioned in the Code, is not mentioned by name because it is covered within wider categories, plural.⁴⁶ We are not obliged to look far for what these wider categories might be as they are apparent from the *Relatio* and the discussions of the plenary session, which, in line with the provisions of canon 17 of the new Code, provide the necessary context for canon 1374 or, at the very least, the mind of the legislator which must be consulted if the meaning of the law is doubtful or obscure.⁴⁷ The declaration also expressly excluded the possibility of local authorities exercising a judgment on the

⁴⁶ Ibid: "Talem circumstantiam tribuendam esse criterio in redactione adhibito, quod servatum est etiam quoad alias associationes pariter silentio praetermissas eo quod in categoriis latius patentibus includebantur."

⁴⁷ Canon 17: "Leges ecclesiasticae intellegendae sunt secundum propriam verborum significationem in textu et contextu consideratam; quae si dubia et obscura manserit, ad locos parallelos, si qui sint, ad legis finem ac circumstantias et ad mentem legislatoris est recurrendum."

nature of Masonic associations and made specific reference to the clarifying declaration of 1981 which made the same matter explicitly clear.

Continued Confusion

This declaration, the publication of which was ordered by the pope on the eve of the new law coming into force, would, it could reasonably be expected, put a final end to all the confusion surrounding the Church's stance on Masonry which had been abroad since the infamous letter of 1974. And yet it did not. Almost as soon as the declaration was made there were those who questioned its legal impact. It was asked if it had the force of an authoritative interpretation, since the Congregation did not have the authority, under canon 16 §1 of the new Code, to issue authoritative interpretations. Similarly, the declaration itself was said not to have the force of law because it was not approved by the Roman Pontiff *in forma specifica*.⁴⁸ This argumentation is difficult to follow. The declaration of the Congregation for the Doctrine of the Faith, while it concerned the proper interpretation of the 1983 Code of Canon Law, was issued on the last day of the *vacatio legis*, while the 1917 Code of Canon Law was still in force. Under the 1917 Code of Canon Law, the Congregation for the Doctrine of the Faith was competent to issue authoritative interpretations of the law which were binding. The timing of

⁴⁸ Canon 16 §2.

the clarification by the CDF is crucial, by issuing it hours before the 1983 Code came into force it was still the proper and competent authority to issue such interpretations. Had the CDF acted the next day, after the 1983 Code took effect, then it is true that it would not have been able to issue an authoritative interpretation, nevertheless, it was fully empowered to do so at the time it acted, and its decision remains illustrative of the *mens legislatoris*.

It was further argued by some that the declaration related only to *moral* law and not canon law, seeking to draw a distinction between a previous canonical prohibition on joining a Masonic Lodge, which carried a canonical penalty of automatic excommunication, and a new situation in which it was still gravely sinful to join the Masons, resulting in an inability to receive Holy Communion, as provided for in the 1983 declaration, but not necessarily canonically prohibited and certainly not attached to a canonical penalty of excommunication.⁴⁹ This argumentation, while defensible and perhaps understandable from a plain text reading of the current canon, begins, upon closer reading of the documents of the Code revision process and the historical documents which form the basis for the canonical prohibition on Masonic membership, to strain under a number of questions which it leaves unanswered.

⁴⁹ For a sample of this argumentation, see: James H. Provost, "Catholics and Masonic Lodges," *CLSA Advisory Opinions 1984-1993*, ed. Patrick Cogan (Washington: CLSA, 1995) 433-434 and "Masonry and Naturalistic Religion," *Canon Law Digest XI* (1983-1985), ed. Edward Pfnausch (Washington: CLSA, 1986) 321-323.

The first of these is: what is meant by the *machinatur*? This term only appears once in the Code of Canon Law and, as we have seen, the historical canonical use of the term referred to a plot of *being*, that is, to the nature of an organization whose very nature and beliefs are so ordered against the teaching of the Church that its existence and growth constitute a plot against the Church. If we are now to accept a new canonical definition of deliberate *action*, as was proposed by the *coetus* and as is suggested by some commentators,⁵⁰ it would also seem necessary to acknowledge the intention of the same *coetus*, in the same document, in the same sentence, that the plot of *being* presented by all Masonic associations be now understood as coming under heresy. This logical progression is, however, absent from many commentaries on the canon.⁵¹

The second question which suggests itself is this: if Masonry is not intended to be covered by canon 1374, despite the clear intentions of the legislators, to whom then is it to apply and what is the purpose of the law? It seems the clear intention of the plenary session to phrase the canon as it is in order for a wider interpretation of those associations covered to be possible. The original *schema*, as we know, had no canon on prohibited societies: such a canon was restored to the draft Code because of a clearly perceived need for

⁵⁰ Thomas Green, "Penal Law: A Review of Selected Themes," *The Jurist* 50 (1990) 242-243.

⁵¹ John Martin, "Penalties for Particular Offences," in *The Canon Law: Letter and Spirit*, ed. Gerard Sheehy et al. (Collegeville, MN: Liturgical Press, 1995) 792.

it. If even Masonry, which has been the historical benchmark for a *eiusdem generis* society, may only possibly be covered, depending on local circumstances, and subject to the strictest of criteria involving active plotting and demonstrable imputability⁵² then canon 1374 would seem to be a law which could never be enforced. Other commentators are broader in their interpretation and firm in their reading of the canon and its sources. For example, Marzoa says that “It is evident that the interpretation of the canon is unequivocal... Belonging to an association that has among its objectives to harm the Church in any way is obviously contrary to being a member of the Church.”⁵³

On the one hand, a plain text reading would seem to suggest a strict interpretation of the canon and its penalties and the need for at least some local investigation into the nature of the society in question. On the other hand, the progressive reading of the foundational canonical documents prohibiting Masonic membership, together with the work of the Code revision process, suggest an intention for a much broader interpretation. The 1983 declaration from the Congregation for the Doctrine of the Faith is itself explicit in its intent and, upon examination of the timing of its release, clear

⁵² Thomas Green, “Penalties for Individual Delicts,” in *New Commentary on the Code of Canon Law*, 1584.

⁵³ *Exegetical Commentary*, 5:484.

in its legal force. We might, therefore, hope to find some reflection of this clarity through how the law is practiced.

A Clerical Mason

In 2010, in the diocese of Annecy, the diocesan bishop received, through an anonymous source, information that Fr. Pascal Vesin, a diocesan priest, was a member of a Lodge of the Grand Orient of France.⁵⁴ This was initially denied by Fr. Vesin and the matter was pursued no further. In April of the following year, a document was forwarded to the Chancery, advertising an address to be made by Fr. Vesin at the local Lodge, for which he was billed as curé of the local parish and a member of the Lodge. Upon investigation it was established that Fr. Vesin had, in fact, been a member of the Lodge since 2001. Fr. Vesin was informed that he must immediately quit the Lodge. Instead of doing so he asserted his “absolute freedom of conscience” and his intention to continue his double life as a Mason and a priest. Under the 1917 Code of Canon Law, this would have been a very clear violation of canon 2336, which provided, in addition to the penalties of canon 2335, that clerics have a penal suspension imposed and that they may be deprived of office. It would seem, following the interpretation of canon 1374 that membership of

⁵⁴ The documentation of this case is available from: Chancery of the Diocese of Annecy, *Communiqué de 29 mai 2013* (Annecy, 2013: http://www.diocese-annecy.fr/rubriques/haut/actualites/communiqué/newsitem_view).

any Masonic society is prohibited, that this would be an obvious instance where the law might be applied. What happened is very interesting.

Hoping for the possibility of reform on the part of Fr. Vesin, the bishop, having obtained the consent of the Congregation for the Doctrine of the Faith, sought to continue dialogue with the recalcitrant cleric and regularise his position. When informed of impending medicinal and vindictive penalties which would be applied, Fr. Vesin pointedly refused to renounce his Masonic affiliation. Seeking a delay of imposition of the penalties of deprivation of office and suspension from ministry which had been communicated to the diocesan bishop by the Congregation for the Doctrine of the Faith following their treatment of the matter, the bishop convoked the presbyteral Council which selected three members to go and attempt to sway their brother, but to no avail. In the documentation made public by the diocese following Fr. Vesin's removal from office and suspension from ministry, it is interesting to note that canon 1374 is not invoked. Indeed, while it is noted that the omission of an explicit mention of Masonry from the 1983 Code does not imply a change in the Church's stance, no particular canon is cited. Instead, the "law" invoked is the 1983 declaration from the Congregation for the Doctrine of the Faith, which is extensively quoted to recapitulate the reasons for the Church's prohibition of Masonic membership and its grave incompatibility with membership in the Church owing to its philosophical rejection of the salvific function of the Church, the objective nature of truth

and the reality of revelation. It is articulated as a theological or dogmatic matter, without reference to *machinatur* but not explicitly invoking canon 1364 regarding heresy either. We have therefore a situation in which penal sanctions have been determined by the Congregation for the Doctrine of the Faith because of Masonic membership, imposed by the diocesan bishop, but which leaves ambiguous whether the violation was of moral law or canonical law or both.

What is clear is that there was no question, either at the diocesan or curial level, of an investigation into the localized circumstances of the particular Lodge: that it was Masonic was, in itself, sufficient to incur the penalty of suspension.

Yet we may infer a number of conclusion from the way the case proceeded. It is clear the penalties inflicted upon Fr. Vesin imposed by a process and were, at least in part, vindictive. Fr. Vesin was not subjected to an excommunication, either *latae sententiae* or *ferendae sententiae*, and thus we can be sure that whatever the canonical violation he is supposed to have committed was, it was not a delict with this penalty attached. It must be one for which penalties of suspension and loss of office are either provided by the law, or fall within the scope of latitude provided by a canon for indeterminate penalties. Examining the pattern of events, and the information publicly available, the only reasonable conclusion we can draw is that Fr. Vesin was punished, both medicinally and vindictively, with the just penalties of canon

1374, which is to be properly applied to any case involving a Masonic Lodge, which, as we know from the CDF declaration, is prohibited without any reference to local context.

A Particular Solution to a Universal Problem

While the reality of Fr. Vesin's Masonic membership, and punishment for it, is clear, we look in vain for an explicit articulation of the delict committed, the process followed and the rationale for the penalties imposed. We are unable, therefore, to demonstrate with true certainty the praxis of the Congregation for the Doctrine of the Faith. Yet we may safely conclude that, absent any particular law in the diocese of Annecy, there was clearly a canonical violation of the universal law which merited the attention of the CDF. The invocation of the 1983 Declaration of the CDF, and the nature of the penalties imposed, suggest that we are treating a violation of the canon of prohibited societies, though we are without a definitive statement.

The 1983 Declaration of the CDF makes it clear that it is not possible for a local authority to make a determination that membership of a local Masonic Lodge was not prohibited.⁵⁵ This is disputed by some commentators, who still maintain that local authorities alone can and should make a proper

⁵⁵ *Declaratio*: "Auctoritatibus ecclesiasticis localibus facultas non est proferendi iudicium circa naturam associationum massonicarum quod secumferat supradictae sententiae derogationem."

determination on the delinquency of membership of a particular Lodge.⁵⁶

While it seems clear that a diocesan bishop cannot declare it permissible to join any Masonic Lodge, Green's point about subsidiarity and the value of the discernment of the local bishop is well taken. A better understanding of the proper application of these principles is to be seen in their application in the opposite direction: rather than seeking to relax the universal prohibition on Masonic membership in light of local circumstances, he is empowered to reinforce it, through particular legislation, when he discerns that they are especially harmful. Such action was taken in the Diocese of Lincoln, Nebraska, in the United States.⁵⁷ In 1996, Bishop Fabian Brukskewitz issued a particular law which stated that:

All Catholics in and of the Diocese of Lincoln are forbidden to be members of the organizations and groups listed below. Membership in these organizations or groups is always perilous to the Catholic Faith and most often is totally incompatible with the Catholic Faith:

Planned Parenthood; Society of Saint Pius X (Lefebvre Group); Hemlock Society; Call to Action; Call to Action Nebraska; Saint Michael the Archangel Chapel; Freemasons; Job's Daughters; De Molay; Eastern Star; Rainbow Girls; Catholics for a Free Choice.

Any Catholics in and of the Diocese of Lincoln who attain or retain membership in any of the above listed

⁵⁶ Thomas Green, "Commentary on Canon 1374," in *New Commentary*: "Only such [local] authorities seem able to clarify precisely whether a given [Masonic] society actively plots against the Church."

⁵⁷ George Read, "Lincoln Nebraska Excommunications," *Canon Law Society of Great Britain & Ireland Newsletter* 107 (September 1996) 18-24.

organizations or groups after April 15, 1996, are by that very fact (*ipso facto latae sententiae*) under interdict and are absolutely forbidden to receive Holy Communion. Contumacious persistence in such membership for one month following the interdict on part of any such Catholics will by that very fact (*ipso facto latae sententiae*) cause them to be excommunicated. Absolution from these ecclesial censures is reserved to the Bishop.⁵⁸

In addition to the Freemasons, Bishop Bruskewitz lists four organizations for women or children formally linked to them: De Molay, Eastern Star, Job's Daughters, and the Rainbow Girls. Membership of all of these, together with the others listed in the decree, is labeled “always perilous to the Catholic faith and most often is totally opposed to the Catholic faith.” This articulates an understanding of the primary danger posed by Masonic societies to an individual Catholic, and to the Church, which is in lockstep with the various historical papal condemnations. It is also an excellent example of a Bishop demonstrating the three principles of canonical reform which we highlighted earlier: the dignity of his office and the right and appropriateness of his use of particular legislation; the principle of subsidiarity; the reservation of the most severe penalties, inflicted *latae sententiae*, for what he perceived to be the gravest offences. Indeed, this would seem to be a demonstration of the ideal harmonization of the CDF

⁵⁸ Bishop Fabian Bruskewitz, *Extra Synodal Statement*, 22 March 1996, Lincoln: Southern Nebraska Register.

declaration, the 1983 Code, and the principles of canonical reform. It is unquestionably the right of the bishop to legislate,⁵⁹ and indeed it is argued by learned canonists that he has a pastoral duty to do so.⁶⁰ In this case, while there was a predictable backlash from those with an antinomian ecclesiology, Bishop Bruskewitz was held to have acted entirely correctly. Following an appeal of the declaration, which was sent to the Congregation for Bishops, it was stated that Bishop Bruskewitz decision to legislate and impose the strictest of medicinal penalties “was properly taken within [his] competence as Pastor of that diocese. The judgment of the Holy See is that the activities of [the societies named] in the course of these years are in contrast with the Catholic Faith due to views and positions held which are unacceptable from a

⁵⁹ c. 1315 §1: “Qui legislativam habet potestatem, potest etiam poenales leges ferre; potest autem suis legibus etiam legem divinam vel legem ecclesiasticam, a superiore auctoritate latam, congrua poena munire, servatis suae competentiae limitibus ratione territorii vel personarum. § 2. Lex ipsa potest poenam determinare vel prudenti iudicis aestimatione determinandam relinquere. § 3. Lex particularis potest etiam poenis universali lege constitutis in aliquod delictum alias addere; id autem ne faciat, nisi ex gravissima necessitate. Quod si lex universalis indeterminatam vel facultativam poenam comminetur, lex particularis potest etiam in illius locum poenam determinatam vel obligatoriam constituere.”

See also: Thomas Green, “The Pastoral Governance Role of the Diocesan Bishop: Foundations, Scope and Limitations,” *The Jurist* 49 (1989) 484: “One must recognize a fundamental presumption of episcopal legislative competence barring evidence to the contrary.”

⁶⁰ See *inter alia*: Francis Morrissey, “The Importance of Particular Law in the New Code,” *CLSA Proceedings* 43 (1981) 1-17; Myriam Wijlens, “The Bishop as Legislator,” *The Jurist* 56 (1996) 68-92.

doctrinal and disciplinary standpoint. Thus to be a Member [of them] or to support [them], is irreconcilable with a coherent living of the Catholic faith.”⁶¹

If we consider the two examples in concert, we could say that Freemasonry remains a canonically prohibited society, membership of which can, and perhaps must, be punished. In cases where particular legislation is in place and which specifies the penalties to be applied, and the manner of their application, the manner of proceeding is accordingly clear. In situations where there is no particular law, reference to the Holy See should be made, through the Congregation for the Doctrine of the Faith, who can advise on the proper manner of proceeding and the proper penalties to inflict. Of course, the cases do not treat exactly identical scenarios. The case of Fr. Vesin concerns a cleric, whereas the particular law of Lincoln is generally applicable. It is possible to conceive that the Congregation may have responded differently to a case involving a lay person who might, or might not, hold ecclesiastical office.

Conclusion

Viewed within the wider context of the process of the revision of the Code of Canon Law, it is not surprising that the inclusion of what eventually

⁶¹ Congregation for Bishops, *Letter*, 24 November 2006 (Prot. N. 539/92), made public by the Diocese of Lincoln; 8 December, 2006.

became canon 1374 went through several iterations. When considering its relevance and force as the *ius vigens* we should keep a number of factors in mind. The first of these is the direction of travel which may be observed in the formation of the canon. As we have seen, the original *schema* for the new Book VI on penal law contained no canon on prohibited societies, nor any mention of Freemasonry. Over the years the decision was made, with much deliberation, to reintroduce such a canon.

The subject, far from being a canonical anachronism, as was suggested by the authors of the Lichtenau Declaration, was considered grave enough to merit discussion during the plenary session of the entire Commission for the Revision of the Code of Canon Law. There, debate focused not on the need for the inclusion of such a canon, or if Masonic membership should remain a delict, but rather on what the proper penalty should be and the pros and cons of an explicit mention of Masonry within the text of the canon. In the end, the prevailing opinion was informed by two documents in particular: the findings of the German Bishops' Conference following their dialogue with the Masons of that country; and the working of the *coetus* on penal law.

Outside the formal process of revision, considerable confusion was sown by those who, rather than reserving discussion and judgment until the promulgation of the new Code in 1983, attempted to see around legislative corners and treat a work in progress as current legislation, to the detriment

of the law explicitly still in force. The expectation that the delict of Masonic membership would be abrogated by the 1983 Code colored the eventual interpretation of canon 1374 by many who, rather than engaging with the work of the *coetus* and the discussion of the *plenarium* to understand the mind of the legislator, insisted on drawing erroneous conclusions from a simplistic plain text reading of the canon, shorn of any historical or canonical context.

The solid assertions of the Congregation for the Doctrine of the Faith notwithstanding, there continues to be academic debate concerning the applicability of any canonical delict, including canon 1374, to the act of joining the Masons by a Catholic. This is manifestly at odds with both particular and universal praxis, which makes clear that Masonic membership by a Catholic is forbidden, and a crime which can be punished. If it could be convincingly argued that it is neither the intention of the legislator, nor the effect of canon 1374, to proscribe Masonic membership by Catholics, it would be almost impossible to conceive of any society to which the canon might be applied.

Rather than continuing to debate the force of canon 1374, which seems clear, future debate on the subject would seem better directed at considering how to better reflect the mind of the *coetus* and treat imputable Masonic membership as a form of heresy as well as a violation of canon 1374. This

would account for the Congregation for the Doctrine of the Faith's reference to Masonry falling under more than one category in the revised penal law, and there would appear to be some strong evidence in the historical treatment of Masonry, as well as in the evolution of the canonical delict of heresy, to merit investigation of this possibility.

Chapter V

Heresy By Association: An Argument

Introduction

A number of observations can be made regarding the origin and nature of the canonical prohibition against Catholic membership of Freemasonry. The original prohibition, brought in by Clement XII in 1738,¹ covered not only membership *per se*, but also an exhaustive list of auxiliary behaviors which would lend the Lodge either direct or tacit support.² It describes Masonry as a sect which unites men of every faith with a bond of religious indifferentism, under a pretence of natural virtue. In short, it is what Quigley terms a theosophical society.³ Clement's immediate successor, Benedict XIV, in his affirmation of Clement's condemnation, noted that this religious

¹ Clement XII, papal bull *In eminenti apostolatus*, 28 April 1738: *Magnum Bullarium Romanum seu eiusdem continuatio* [MBR] 118 (Luxemburg: Henric-Albert Grosse, 1727-1754) 15:184.

² *In eminenti*, §3: “vel propagare, confovere, ac in suis aedibus, seu Domibus, vel alibi receptare, atque occultare, iis adscribi, aggregari, aut interesse, vel potestatem, seu commoditatem facere, ut alicubi convocentur, iisdem aliquid ministrare, sive alias consilium, auxilium, vel favorem palam, aut in occulto, directe, vel indirecte per se, vel alios quoquo modo praestare, nec non alios hortari, inducere, provocare, aut suadere, ut huiusmodi Societatibus adscribantur, annumerentur, seu intersint, vel ipsas quomodolibet iuvent, ac foveant, sed omnino ab iisdem Societatibus, Coetibus, Conventibus, Collectionibus, Aggregationibus, seu Conventiculis prorsus abstinere se debeant, sub poena excommunicationis per omnes.”

³ Joseph Quigley, *Condemned Societies*, Canon Law Studies 46 (Washington DC: Catholic university of America, 1927) 40.

indifferentism does clear damage to the Catholic faith as a whole and to the faith of an individual Catholic who is exposed to the philosophy of Masonry.⁴ Both popes condemned the secrecy of the Masons, and the oaths with which they enforce it, not only because secrecy is, itself, an indication of iniquity, but also because it removes the actions of Catholics in the Lodge from legitimate ecclesiastical oversight.⁵

The eventual canonical articulation of Masonry as plot against the Church has its roots in the encyclical of Pius VIII *Traditi humilitati*, which included in its treatment of Masonic societies the work of Bible Societies, whose distribution of sacred scripture, in the vernacular and without approved commentary, was termed a plot against the Catholic faith.⁶ Leo XIII summed up the Church's assessment of Masonry in *Humanum genus*, in which he characterised the Lodge as the Second City of St Augustine's City of God, which is inherently evil and opposed by its nature to the Church. He was clear that Masonry should be assessed, and condemned, according to its

⁴ Benedict XIV, papal bull *Providas romanorum*, 18 May 1751: *MBR* 18:214.

⁵ *Providas*, §7.

⁶ Pius VIII, encyclical letter *Traditi humilitati* §5, 24 May 1829: *Bullarium romani continuatio Summorum Pontificum [BSP]* 19 vols. (Rome: Ex Typographia Reverendae Camerae Apostolicae, 1838-1855) 18:18.

body of thought and opinion and not by the external acts which they were able to accomplish.⁷

In Book V, concerning penal law, in the 1917 Code of Canon Law, the delict of joining a Masonic society was listed among the delicts against ecclesiastical authority in Title XIII.⁸ Yet throughout the 1917 Code, those Catholics who have joined the Masons are grouped always with the most serious delinquents against the faith; heretics, apostates, and schismatics; and not with notorious grave sinners or in similar, lesser, categories.⁹ While the question was never specifically asked or answered regarding explicitly Masonic societies, when the Holy Office was asked if joining the Communist Party, membership of which was prohibited in the 1917 Code as a society *eiusdem generis* to Masonry, resulted in the commission of the delict of, and incurred the penalty for, apostasy, they responded “Affirmative.”¹⁰

During the revision process of the Code of Canon Law, canon 2335 of the 1917 Code was omitted completely in the original draft *schema* for the revised section on penal law. As the process of reform continued, the canon was reinstated. Debate began to focus on whether Freemasonry should be

⁷ Leo XIII, encyclical letter *Humanum genus*, 20 April 1884: ASS 16 (417-433) §§6,11.

⁸ Canon 2335, *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus* (Rome: Typis Polyglottis Vaticanis, 1917).

⁹ CIC 1917; cc. 1065, 1239, 1453.

¹⁰ Holy Office, *Decree*, 1 July 1949: AAS 41 (1949) 334.

mentioned by name in the new code. There was concern that, under the old Code, there had been too much confusion about what made a society similar in nature to Freemasonry, and that its quasi-spirituality, secrecy, and ritual had distracted understanding of the fundamental criteria of being antithetical in philosophy to the faith. It was recommended by the *coetus* for penal law that the Masons not be explicitly mentioned so that there might be the scope for a more broad interpretation of the concept of societies which plot against the Church, and that it be understood more instinctively to include, *inter alia*, the Communist Party. The new formulation of the delict of joining prohibited societies would no longer contain the severest penalty of automatic excommunication. This was, it was explained in the workings of the *coetus*, because, while the grave philosophical incompatibilities of Masonry with the Catholic faith did merit the gravest penalty for a Catholic who joined, this was a matter of heresy and should be treated as such; canon 1374 of the new 1983 Code of Canon Law concerned the practical activity of a group, be it Masonic, political, or otherwise, which, while not meriting a charge of heresy, should still be punished with lesser penalties.¹¹

¹¹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em. mis Atque Exc. mis Patribus Commissionis as Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Vatican City: Typis Polyglottis Vaticanis 1981) 303: “Nam incompatibilitas cum fide catholica vel incidit in haeresim et tunc cadit sub can. 1316 vel non, et tunc non meretur tali gravissima poena.”

It was never the intention of the legislator to permit Catholic membership of a Masonic Lodge, for any reason. Nor was it intended that there be any local determination regarding the particular malignancy of a given Lodge concerning their beliefs. This was underscored by an authoritative interpretation of the new (1983) Code of Canon Law, issued by the Congregation for the Doctrine of the Faith on the last day of the *vacatio legis*, when, with the 1917 Code still in force, they were still able to issue authoritative interpretations.¹² In this decree, it was also made clear that Freemasonry, while not explicitly mentioned in the new Code, was to be considered to fall under more than one category. While it is clear from the canonical and historical contexts that one of these canons is 1374, there is no authoritative indication from the Holy See as to which other canon, or canons, Masonry should be held to come under, nor is it possible to infer it from the praxis of the law.

Consideration of the historical condemnations of Masonry and the stated mind of the penal *coetus* would suggest that, in cases of Masonic membership by a Catholic, canon 1364 of the 1983 Code of Canon Law, which treats apostasy, heresy, and schism, should also be applied. Yet, since there is no published record of Masonry ever being canonically treated as heresy, nor is

¹² Sacra Congregatio pro Doctrina Fidei, *Declaratio*, AAS 76 (1984) 300.

there any authoritative instruction to say that it can or should be, this can neither be assumed nor simply asserted.

This chapter will examine the canonical delict of heresy, as contained in canon 1364 of the 1983 Code of Canon Law, and seek to apply it to the case of a Catholic who joins a Masonic Lodge. It will specifically consider: the necessary criteria for the commission of the delict sufficient to incur the penalty; the historical canonical treatment of heretical sects and groups *qua* groups; as well as the individual case of Freemasonry, its rituals of initiation, and philosophical teachings and claims of authority.

It will seek to conclude with a simple answer to a simple question: “Does a Catholic, simply by joining a Masonic Lodge, commit heresy?”

The Delict of Heresy

Heresy is defined, along with the related crimes of apostasy and schism, by canon 751 of the 1983 Code of Canon Law:

Heresy is the obstinate denial or obstinate doubt, after the reception of baptism, of some truth which is to be believed by divine and Catholic faith; apostasy is the total repudiation of the Christian faith; schism is the refusal of submission to the Supreme Pontiff or of communion with the members of the Church subject to him.¹³

¹³ Canon 751: “Dicitur haeresis, pertinax, post receptum baptismum, alicuius veritatis fide divina et catholica credendae denegatio, aut de eadem pertinax dubitatio; apostasia, fidei christianae ex toto repudiatio; schisma, subiectionis Summo Pontifici aut communionis cum Ecclesiae membris eidem subditis detrectatio.” *Codex Iuris Canonici auctoritate Ioannis*

These concepts are defined within Book III of the Code of Canon Law, concerning the Teaching Office of the Church, yet they are constituted as delicts in Book VI on Penal Law. Canon 1364 §1 provides that:

Without prejudice to the prescript of canon 194 §1, 2° [concerning loss of ecclesiastical office *ipso iure*], an apostate from the faith, an heretic, or a schismatic incurs a *latae sententiae* excommunication; in addition, a cleric can be punished with the penalties mentioned in c. 1336 §1, 1-3° [expiatory penalties].¹⁴

The imposition of a *latae sententiae* excommunication for anyone who commits any of the three delicts contained in the canon is effectively unchanged from the formulation of the delict in the 1917 Code of Canon Law.¹⁵ The continuity between the two codes is an obvious indication of the mind of the Commission for the Revision of the Code of Canon Law. As we know, they had the express intention of reducing the number of canonical delicts generally, and the specific intention of reducing, whenever possible,

Pauli PP. II promulgatus [CIC] (Vatican City: Libreria Editrice Vaticana, 1983). English translation from *Code of Canon Law, Latin-English Edition: New English Translation* (Washington, DC: CLSA, 1998). All subsequent English translations of canons from this code will be taken from this source unless otherwise indicated.

¹⁴ Canon 1364 §1: “Apostata a fide, haereticus vel schismaticus in excommunicationem latae sententiae incurrit, firmo prescripto c. 194 §1, 2°; clericus praetera potest poenis, de quibus in c. 1336 §1, 1-3°, puniri.”

¹⁵ Canon 2314 §1, 1°: “Omnes a christiana fide apostatae et omnes et singuli haeretici aut schismatici: Incurrunt ipso facto excommunicationem.”

instances where penalties would be imposed *latae sententiae*.¹⁶ The the first draft of the canon by the *coetus* on penal law showed the original intention of omitting the delict of apostasy and substituting a *ferendae sententiae* penalty for heresy and schism.¹⁷ That the delict and punishment were left intact by the end of the process demonstrates that there was general consensus on: the need to recognise the crimes of heresy, apostasy, and schism; their close inter-relation in matter and gravity (hence their continued inclusion in the same canon); their meriting of the severest penalty. As Marzoa notes, the placing of canon 1364 as the first canon in the section on penalties for particular offences indicates its concern with defending the most important possessions of the Church: the deposit of faith and communion in faith and discipline, which, together with communion in the sacraments, make up the triple bond of full communion in the Church, as articulated in canon 205.¹⁸

As was discussed in chapter III, when considering the nature of a canonical crime, it is always important to distinguish between the sin and the delict, for while every delict is sinful, not every sin constitutes a canonical

¹⁶ *Communicationes* 6 (1974) 33.

¹⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema documenti quo disciplina sanctionum seu poenarum in ecclesia latina denuo ordinatur* (Vatican City: Typis Polyglottis Vaticanis, 1973) 27.

¹⁸ Ángel Marzoa, "Offences Against Religion," *Exegetical Commentary on the Code of Canon Law*, English language edition, 5 vols., ed. Ernest Caparros et al. (Chicago & Montreal: Midwest Theological Forum and Wilson and Lafleur, 2004) 4/1:439.

delict.¹⁹ In this case, it is important to distinguish between the sin of heresy, that is the violation of the moral law, and the delict of heresy, that is the commission of the canonical crime. Indeed, the difficulty in juridically assessing the externality, gravity, and imputability of an act of heresy was cited as a reason both for and against the retention of a *latae sententiae* penalty. Those in favor of an imposed penalty argued that unless the act was externally provable, and both sufficiently imputable and grave, it did not merit the imposition of an excommunication; the satisfaction of these criteria demanded a process of some kind. *Latae sententiae* penalties were better suited to a definite action whose commission and gravity could not be disputed either in fact or in grade, such as the procurement of an abortion. Those in favor of the automatic penalty contended that because the delict was so serious, and because there would be such obvious difficulties in convening a process for each individual case, it was necessary that the act itself carry the penalty to ensure that the delict was punished. The final resolution upon an automatic penalty is not one which is explained in documents pertaining to the revision process. We may, however, infer that the determination was made that such an action by a member of the faithful presents not merely a case aberrant behavior which the Church rightly wishes to correct for the good of the soul of the offender, but of a harm being done to the fundamental

¹⁹ Chapter III, note 20.

good of the Church and the wider community, the effects of which demand punishment even when there is no process for formally recognising either the offence or the punishment.²⁰

Parsing the provisions of the canon, and the applicable requirements of penal law, we can arrive at the following description of the delict of heresy. It is an action committed by one who has already been baptized as a Catholic, or otherwise validly baptized and received into full communion with the Church. There must be some rejection or doubt of a *credenda* teaching of the Church, as defined in canon 750 §1.²¹ Examples of such teaching are given in the Congregation for the Doctrine of the Faith's commentary of the revised formula for the profession of faith:

Examples: Without any intention of completeness or exhaustiveness, some examples of doctrines relative to the three paragraphs described above can be recalled.

To the truths of the first paragraph belong the articles of faith of the Creed, the various Christological dogmas and Marian dogmas; the doctrine of the institution of the sacraments by Christ and their efficacy with regard to grace; the doctrine of the real and substantial presence of Christ in the Eucharist and the sacrificial nature of the eucharistic celebration; the foundation of the Church by the will of Christ; the

²⁰ For a more elaborate treatment of the debate and resolution, see: Marzola in *Exegetical Commentary*, 4/1:441-444.

²¹ c. 750 §1: "Fide divina et catholica ea omnia credenda sunt quae verbo Dei scripto vel tradito, uno scilicet fidei deposito Ecclesiae commisso, continentur, et insimul ut divinitus revelata proponuntur sive ab Ecclesiae magisterio sollemni, sive ab eius magisterio ordinario et universali, quod quidem communi adhaesione christifidelium sub ductu sacri magisterii manifestatur; tenentur igitur omnes quascumque devitare doctrinas iisdem contrarias."

doctrine on the primacy and infallibility of the Roman Pontiff; the doctrine on the existence of original sin; the doctrine on the immortality of the spiritual soul and on the immediate recompense after death; the absence of error in the inspired sacred texts; the doctrine on the grave immorality of direct and voluntary killing of an innocent human being.²²

Having either rejected or doubted such a fundamental teaching, it is necessary that one manifest this doubt or rejection in an exterior manner. While one could commit the sin of heresy by holding an heretical position internally, delicts concern necessarily external acts. In this case, the historical treatment of the delict of heresy would seem to necessitate words (spoken or written) or actions which unambiguously demonstrate the denial of belief in some article of faith.²³ When exactly an action, rather than words, becomes explicit enough to infer the delict of heresy is difficult to determine. Murphy raises the following conceivable, if somewhat extreme, hypothetical:

²² §11: "Exempla. Nec absolute vel perfecte, sed tantum illustrandi causa quaedam exempla doctrinarum ad tria supra dicta commata pertinentium afferentur. Ad primi commatis veritates pertinent articuli fidei Credo, varia dogmata christologica et Mariana; doctrina institutionis sacramentorum a Christo eorumque efficacia quod ad gratiam; doctrina de Christi praesentia reali et substantiali in eucharistia et celebrationis eucharisticae natura sacrificia; constitutio Ecclesiae voluntate Christi; doctrina de Romani Pontificis primatu et infallibilitate; doctrina de peccati originalis existentia; doctrina de animae spiritualis immortalitate et de remuneratione statim post mortem praesenti; absentia erroris in scriptis sacris inspiratis; doctrina de gravi turpitudine occisionis hominis innocentis directae et voluntariae." Congregation for the Doctrine of the Faith, *Professio fidei et Iusiurandum fidelitatis in suscipiendo officio nomine Ecclesiae exercendo una cum nota doctrinali adnexa*, 29 June, 1998: AAS 90 (1998) 549.

²³ See, *inter alia*: Thomas Bouscaren & Adam Ellis, *Canon Law A Text and Commentary* (Milwaukee: Bruce Publishing, 1951) 919. Charles Augustine, *A Commentary on the New Code of Canon Law*, 8 vols. (London & St Louis: B. Herder, 1924) 8:287.

If a baptized man should, upon having the doctrine of the true presence explained to him, decide internally that he does not believe this, he commits the sin of heresy. Supposing that same man, informed by this internal conviction, persistently refuses to remove his hat in Church or genuflect in front of the tabernacle, is this sufficient enough of an external manifestation to qualify as the delict of heresy?²⁴ While Murphy concludes probably not, it suffices to illustrate the point that the external action must be able to be interpreted as signifying the motivating heretical belief, for the sinfulness of heresy relates to the effect on the heretic, the delinquency of heresy pertains to its effect on the community.

It is also necessary that, having rejected or doubted a *credenda* teaching and externally manifested it in a sufficiently unambiguous way, one's action must be morally imputable. Generally speaking, a number of factors can affect imputability.²⁵ Imputability of an external act necessarily involves two elements; deliberation and free will. There are, as was discussed in chapter III, degrees of imputability within the law, these are *dolus* and *culpa*, or malice and culpable negligence.²⁶ These terms, while

²⁴ Eric MacKenzie, *The Delict of Heresy*, Canon Law Studies 77 (Washington DC: Catholic University of America, 1932) 35.

²⁵ For a general examination of imputability in penal law, see chapter III, notes 22-27.

²⁶ Canon 1321 §1: "Nemo punitur, nisi externa legis vel praecepti violatio, ab eo commissa, sit graviter imputabilis ex dolo vel ex culpa."

subject to a certain canonical nuance, are fairly accessible; one can either act with criminal intent or out of deliberate or culpable negligence. Since intention is naturally a matter of interior disposition, the Code of Canon Law makes it clear that when there is an external violation of the law, imputability is presumed unless it is otherwise apparent.²⁷ This is the latest iteration of a canonical principle which was also present in the 1917 Code of Canon Law, which established the same presumption.²⁸ While it must be noted that the two laws actually provide for different presumptions; the 1917 Code presumes *dolus*, while the 1983 Code presumes imputability, the impact of this change is debatable. While it is clear that a straightforward presumption of “guilt” would not be in keeping with the mind of the legislator nor especially beneficial for the *salus animarum*, it is necessary to underscore that what is being presumed by the law is not “guilt” but imputability, or rather; “responsibility for one's actions.” The presumption of canon 1321 §3 is not that a person committed a delict, rather; that it being either manifest or proven that a person has externally violated the law, it is presumed that the person's internal intention conforms to their external

²⁷ c. 1321 §3: “Posita externa violatione, imputabilitas praesumitur, nisi allud appareat.”

²⁸ c. 2200 §2, *CIC* 1917: “Posita externa legis violatione, dolus in foro externo praesumitur, donec contrarium probetur.”

words and actions. This principle is articulated elsewhere in the Code when it treats cases of simulation in the act of the exchange of marital consent.²⁹

Conversely, it is proposed by Green that the formulation of the 1983 Code lessens the gravity of the presumption of law and, effectively, means that if there is any evidence which could pose even reasonable questions about intent, then there cannot be a presumption of culpability sufficient to punish.³⁰ Green further suggests that, while the new formulation is “less objectionable” than that of the 1917 Code, it is better replaced in practice with “the traditional Anglo-American presumption of innocence until one is proven guilty [which] seems still more appropriate.”³¹ Though, as was just discussed, the presumption is not of guilt but of imputability; presumption of innocence in the case of a penal trial is perfectly in keeping with canonical tradition, but this is not the same as a presumption of imputability when the commission of a delict is either proven or certain. Marzoa offers a more nuanced argument against too strict a presumption of imputability when he cites the canonical principle *in dubio, pro reo*, though he emphasises that

²⁹ c. 1101 §1: “Internus animi consensus praesumitur conformis verbis vel signis...”

³⁰ Thomas Green, “Penal Law: A Review of Selected Themes,” *Jurist* 50 (1990) 243-244.

³¹ Thomas Green, “Delicts and Penalties in General,” *New Commentary on the Code of Canon Law*, ed. John P. Beal et al. (New York/Mahwah, NJ: Paulist Press, 2000) 1542.

the presumption of the law is overturned only by a well-founded doubt, and not merely the ability to raise any question to the contrary.³²

What should be noted, when considering the presumption of law is that, in accord with the provisions of canon 1321, grave *imputability* is necessary for a punishment. This imputability can be either *dolus* or *culpa*.³³ While the 1983 Code may no longer presume *dolus*, as the 1917 Code did, *dolus* is not necessary for the infliction of a penalty. The qualification in the canon that the imputability be grave would seem to suggest that, in the case of *culpa*, there should be no apparent mitigating factors which would lessen the culpability.

When considering the specific delict of heresy the most important mitigating factor to consider would be ignorance. Canon 1323 specifies that a person who, without negligence, was ignorant that he had violated a law is not subject to a penalty; inadvertence or error are equivalent to ignorance.³⁴ While the nature of canonical ignorance, its gradations and effects on

³² Marzoa in *Exegetical Commentary*, IV/I:274. See also: Velasio de Paolis, *De Sanctionibus in Ecclesia: Adnotationes in Codicem Liber V* (Rome: Pontificia Univ. Gregoriana, 1986) 59.

³³ Canon 1321 §1 Nemo punitur, nisi externa legis vel praecepti violatio, ab eo commissa, sit graviter imputabilis ex dolo vel ex culpa.”

³⁴ Canon 1323, 2°: “Nulli poenae est obnoxius qui, cum legem vel praeceptum violavit: sine culpa ignoravit se legem vel praeceptum violare; ignorantiae autem inadvertentia et error aequiparantur.

imputability, can easily form the basis of an entire work of its own,³⁵ we must especially note that ignorance or error about either a law or a penalty is not presumed.³⁶ Indeed, when we consider this along with the presumption of culpability in the commission of a delict, it would seem that to avoid the infliction of a penalty ignorance would not merely have to be asserted but proven.³⁷

As was extensively demonstrated in the preceding chapter, there is evidence of considerable and widespread confusion during the period of the revision of the Code of Canon Law on the enduring force of canon 2335 of the 1917 Code regarding the explicit prohibition of Catholic membership of the Freemasons. In the United States at least, this confusion gave rise to the recognizable pastoral problem of significant numbers of Catholics who might have joined the Freemasons while in genuine ignorance or error about the delict of Masonic membership.³⁸ In this case it is difficult to consider the just application of canonical penalties (either *latae* or *ferende sententiae*) for the

³⁵ For a full treatment on the origins, history, and canonical understanding of ignorance see: Innocent Swoboda, *Ignorance in Relation to the Imputability of Delicts*, Canon Law Studies 143 (Washington DC: Catholic University of America, 1941).

³⁶ Canon 15 §2: “Ignorantia vel error circa legem aut poenam... non praesumitur.”

³⁷ John Huels states, in his commentary on this canon that “To claim exemption from or mitigation of a penalty, one would have to prove ignorance or error, to the extent this is permitted by law.” See: John Huels, “Ecclesiastical Laws,” *New Commentary*, 70.

³⁸ Pastoral Research and Practices Committee Report, “Masonry and Naturalistic Religion,” *Origins* Volume 15/6 (27 June 1985) 83.

delict of joining a prohibited society, either under canon 2335 or 1374.

Regarding the delict of heresy however, there was a much greater degree of continuity of understanding.

As has been demonstrated, the origin of the Church's opposition to Freemasonry was not, as it is often assumed, related to their history of active sedition against the institutional hierarchy of the Church or secular governments. Rather, Masonry was perceived primarily as a vehicle for the advancement of the relativistic philosophy of the Enlightenment and a danger to the faith of any Catholic who might join the Lodge. As we have also seen, the various rituals of initiation for the first three degrees of so-called Blue Lodge Masonry, common to all forms, involve extremely suspect, quasi-religious, rites which seem to assert philosophical concepts in conflict with the teaching of the Church. If an organization is considered a danger to the faith, or as constituting a plot against it, and advances a belief system of its own in conflict with the basic dogmas of the Church, it might intuitively be termed an heretical association. While conceiving of an heretical society is possible, it raises the obvious question: is there such a canonical concept as a delict of heresy by association?

Bad Company: Heretical Associations in Canon Law

Recalling the language of Pope Clement XII's original condemnation of Freemasonry, it is striking to note that it was not merely the Masons

themselves who were covered by the penalties provided by *In eminenti*. The *latae sententiae* excommunication imposed by the bull was incurred by those who entered, propagated, supported, received, hid, enrolled in, were joined to, were present with, gave power or permission for meetings to, helped in any way, advised, encouraged, supported openly or in secret, directly or indirectly, Masonic societies or those who urged, incited or persuaded others to do so.³⁹ Without the proper historical context, and viewed from an uninformed, purely modern canonical perspective, this imposition of the most severe penalty upon those who had even the loosest affiliation with a Masonic society could strike us as excessively punitive and lead us to ask what was so particular about the Freemasons that merited such singular treatment. We might understandably assume that the danger posed by the Masons to the hierarchy of the institutional Church and the wider social

³⁹ *In eminenti*, §3: “Quocirca omnibus, et singulis Christifidelibus cuiuscumque status, gradus, conditionis, ordinis, dignitatis, et praeeminentiae, sive laicis, vel Clericis tam Saecularibus quam Regularibus, etiam specifica, et individua mentione, et expressione dignis districte, et in virtute sanctae obedientiae praecipimus, ne quis sub quovis praetextu, aut quaesito colore audeat, vel praesumat praedictas Societates, de liberi Muratori, seu Francs Massons, aut alias nuncupatas inire, vel propagare, confovere, ac in suis aedibus, seu Domibus, vel alibi receptare, atque occultare, iis adscribi, aggregari, aut interesse, vel potestatem, seu commoditatem facere, ut alicubi convocentur, iisdem aliquid ministrare, sive alias consilium, auxilium, vel favorem palam, aut in occulto, directe, vel indirecte per se, vel alios quoquo modo praestare, nec non alios hortari, inducere, provocare, aut suadere, ut huiusmodi Societatibus adscribantur, annumerentur, seu intersint, vel ipsas quomodolibet iuvent, ac foveant, sed omnino ab iisdem Societatibus, Coetibus, Conventibus, Collectionibus, Aggregationibus, seu Conventiculis prorsus abstinere se debeant, sub poena excommunicationis per omnes, ut supra contrafacientes ipso facto absque ulla declaratione incurrenda, a qua nemo per quemquam nisi per nos, seu Romanum Pontificem pro tempore existentem, praeterquam in articulo mortis constitutus, absolutionis beneficium valeat obtinere.”

order was so grave that it merited new and extreme measures to combat it. However, reviewing the historical canonical treatment of heresy, we discover that the language of *In eminenti* and its provisions, far from being novel or excessive, are actually closer to an example of the standard treatment of an heretical society.

Heresy as a group phenomenon or mass movement was never a novelty in the Church. Indeed the very word “heresy” is derived from the Greek word αἵρεσις, which in the writings of the New Testament is most commonly rendered as “sect.”⁴⁰ It is not immediately used as an implicitly negative term, but merely to signify different strains of theological thought and practice and is thus applied, *inter alia*, to the Pharisees and the Saducees.⁴¹ The negative connotation of the term to mean deviant or false teaching and belief, at least in the context of the New Testament, is drawn from the letters of St. Paul, who is the first to pair schism with heresy as related crimes against the faith and, where there is contumacy, to provide the penalty of excommunication.⁴² During the patristic period of the Church, the terms “heresy” and “heretic” had come to be applied to the teachings and people who warped the true faith of the Church. The Church from its earliest

⁴⁰ MacKenzie, 1.

⁴¹ See for example: Acts 15:5.

⁴² 1 Corinthians 11:18; Titus 3:10.

days was obliged to condemn and resist the heresies not merely of individuals who fell into error, but entire movements who threatened to undermine the teaching of the Church and lead entire countries into error. Many of these, like the Manicheas, the Arians, Nestorians, and the Gnostics are familiar names to all, and formed the subject of the early Ecumenical Councils.⁴³ Gradually an entire body of canonical legislation and punishment for heresy came into being which remained effectively intact and unchanged from the sixth century through the middle of the twelfth century, so that when Gratian began his great work of canonical compilation he recorded canons which were already long established regarding heresy.⁴⁴ As the Church became more established and the faith was considered by the secular authorities as essential to the public good, severe civil punishments, often including death, were inflicted, in addition to the ecclesiastical penalties of excommunication suspension, public penance, and so on.⁴⁵ This gave rise to the practice where an ecclesiastical tribunal would find a person guilty of

⁴³ Mackenzie, 1-9.

⁴⁴ Franciscus Wernz, *Ius Decretalium*, 3rd edition, 8 vols. (Rome: Prati, 1913), 6:283. In Gratian's *Decretum*: C. XXIII; C. XXIV; Friedberg's edition of the *Corpus Iuris* demonstrates that Gratian drew on canons from ecumenical and particular councils, as well as papal decretals, from the sixth century and before but little after.

⁴⁵ Elphege Vacandard, *The Inquisition; a Critical and Historical Study of the Coercive Power of the Church*, English language edition translated by Bertrand Conway (New York: Longmans, Greens & co., 1918) 20-26.

heresy, inflict or declare ecclesiastical penalties, and then turn the malefactor over to the civil authority who would inflict their own punishment for the civil offence of heresy. It should be noted that while the crime of heresy was proscribed by both authorities, and punished by both, the determination of the commission of the delict was always left to the ecclesiastical authority.⁴⁶

Just as Gratian was completing his work, the Church and wider Christian society faced a renewed threat of mass heresy from a revival of the old Manichean doctrines. These heretical groups were called by various names, most commonly the Albigensians or Cathars. These groups were present in significant numbers across Christian Europe, most especially in France and Spain, and, given the Christian character of civil society, their doctrines assaulted both the civil and ecclesiastical institutions of authority, oaths, marriage and the moral fabric of public life. In essence, the heresy of Catharism can be called dualistic. Essential to their beliefs was a rejection of the entire created world as the work of the devil. They considered their practice, which was highly ritualised and structured, to be the only means of salvation and they rejected both the power and the necessity of Christian baptism. In addition to being widespread and well organized, they were also

⁴⁶ Ibid, 33-36.

secret.⁴⁷ The Church, when faced with a widespread, well organized and secret network which was actively teaching against the basic principles of the Catholic faith, was obliged to take action.

The most obvious action taken was the eventual waging of the so-called Albigensian crusade in 1209-1229, which was declared by Pope Innocent III and which was aimed at overthrowing the open and institutionalized heresy which had taken root in southern France. While it is easy enough to point an army at a public and established enemy of the Church and state, it was much harder to determine how to assess heresy, including ascription to secret heretical movements, in an individual, and deciding who to punish and how. Canon law at the time did not provide a universal procedure for conducting a heresy trial. It was the diocesan bishop who had to determine what to do with suspected heretics and, in many places, they still relied on the germanic traditions of oaths and ordeals which, while often edifying to the local populace, served neither truth nor justice.⁴⁸ Consequently, the late twelfth and early thirteenth centuries saw a boom in canon law concerning heretics. Pope Lucius III began the process with his bull *Ad abolendam* in 1184, which was eventually incorporated as

⁴⁷ For a summary of the Cathar belief system see: Michael Thomsett, *The Inquisition, A History* (North Carolina: McFarland & co., 2010) 36-52.

⁴⁸ Malcolm Lambert, *Medieval Heresy: Popular Movements from the Gregorian Reform to the Reformation*, 2nd edition (Oxford: Oxford University Press, 1992) 66-67.

canon 3 of Lateran Council IV.⁴⁹ The bull provided for the excommunication not only of the members of the Cathari sects and those who expounded their teachings but also any who helped them, stating:

More particularly we declare all Cathari, Paterines, and those who call themselves the Humbled, or Poor of Lyons, Passagines, Josephines, Arnoldists, to lie under a perpetual anathema... We also therefore include under the same sentence of a perpetual anathema all those who... presume to preach publicly or privately without any authority received either from the Apostolic See, or from the Bishops of their respective dioceses; similarly all those who are not afraid to hold or teach any opinions concerning the sacrament of the body and blood of our Lord Jesus Christ, baptism, the remission of sins, matrimony, or any other sacraments of the Church, differing from what the Holy Church of Rome preaches and observes; and generally all those who the same Church... shall judge to be heretics. And we likewise declare all entertainers and defenders of such heretics, and those that have showed any favor, or given any encouragement to them, thereby strengthening them in their heresy, to be liable to the same sentence.⁵⁰

⁴⁹ Lucius III, papal bull *Ad abolendam*, 4 November, 1184: *Antiquae Collectiones Decretalium cum Antonii Augustini Episcopi Ilerdensis notis* (Villanoua: Petrum Rob. & Ioanem, 1576) 74.

⁵⁰ Ibid: “Imprimis ergo Catharos et Patarinos et eos, qui se Humiliatos vel Pauperes de Ludguno falso nomine mentiuntur, Passaginos, Iosephinos, Arnaldistas perpetuo decernimus anathemati subiacere. Et quoniam nonnulli, sub specie pietatis virtutum eius, iuxta quod ait Apostolus, denegantes, auctoritatem sibi vendicant praedicandi: quum idem Apostolus dicat: “quomodo praedicabunt, nisi mittantur?” omnes, qui vel prohibiti, vel non missi, praeter auctoritatem, ab apostolica sede vel ab episcopo loci susceptam, publice vel privatim praedicare praesumpserint, et universos, qui de sacramento corporis et sanguinis Domini nostri Iesu Christi, vel de baptismo, seu de peccatorum confessione, matrimonio vel reliquis ecclesiasticis sacramentis aliter sentire aut docere non metuunt, quam sacrosanta Romana ecclesia praedicat et observat, et generaliter, quoscumque eadem Romana ecclesia vel singuli episcopi per dioceses suas cum consilio clericorum, vel clerici ipsi sede vacante cum consilio, si oportuerit, vicinorum episcoporum haereticos iudicaverint, pari vinculo perpetui anathematis innodamus. Receptores et defensores eorum, cunctosque pariter, qui praedictis haereticis ad fovendam in eis haeresis pravitatem patrocinium praestiterint aliquod vel favorem, sive consolati, sive credentes, sive perfecti, seu quibuscunque superstitiosis nominibus nuncupentur, simili decernimus decernimus sententiae subiacere.”

We see here the first occasion of a canonical penalty for heresy being applied, at the same time, to: all the members of an heretical group; individual heretics; those who disseminate heretical teaching; and those who help them in any way. The bull outlines the proper means for taking testimony and establishing a case of heresy, and threatens a three year suspension from the episcopal dignity for bishops who are slow to respond to instances of heresy within their dioceses. The bull further orders that the bishops and secular authorities cooperate closely in the detection and punishment of heretics with both ecclesiastical and civil penalties, since the heretical societies are a danger to both, even going as far as threatening civil powers with economic sanctions if they do not comply.⁵¹

This important conflation of the danger posed by heretical societies to both Church and state was cemented in the decree of Innocent III *Vergentis in senium*, which made heresy in the Papal States an act of secular treason

⁵¹ Ibid: "Statuimus insuper, ut comites, barones, rectores et consules civitatum et aliorum locorum, iuxta commonitionem archiepiscoporum et episcoporum, praestito corpolariter iuramento promittant, quod in omnibus praedictis fideliter et efficaciter, ab eis exinde fuerint requisiti, ecclesiam contra haereticos et eorum complices adiuwabunt et studebunt bona fide iuxta officium et posse suum ecclesiastica simul et imperiali statuta circa ea, quae diximus, executioni mandare. Si vero id observare noluerint, honore, quem obtinent, spolientur et ad alios nullatenus assumantur, eis nihilominus excommunicatione ligandis, et terris ipsorum interdicto ecclesiae supponendis. Civitas autem, quae his decretalibus institutis duxerit resistendum, vel contra commonitionem episcopi punire neglexerit resistentes, aliarum careat commercio vicinatum et episcopali se noverit dignitate privandam."

which could be appropriately punished by death.⁵² This principle was soon adopted by other secular powers across Europe who readily incorporated heresy into the civil understanding of treason against the crown, beginning with the Emperor Fredrick II, who instituted the penalty of death by burning at the stake.⁵³

Throughout the next several centuries there was a gradual expansion and development of Church teaching regarding heresy. Theological descriptions of the different heresies were formulated so that they could be better recognized and refuted. However, while the danger of heresy was clear enough, it was accepted that detecting and prosecuting it increasingly called for specialised training. The papal inquisition was created, following the Albigensian crusade, in 1231 by Gregory IX with the appointment of special investigator-judges, drawn from either the Dominican or Franciscan orders, who were dispatched to areas of special concern, either at the request of the local authorities, civil or ecclesiastical, or on the initiative of the Holy See.⁵⁴ It was hoped that the expert work of these tribunals would prevent the development of heretical sects into another crisis like the one which resulted

⁵² Innocent III, papal bull *Vergentis in senium*, 25 March, 1199.

⁵³ James Given, *Inquisition and Medieval Society* (Ithica, NY: Cornell University Press, 1997) 13.

⁵⁴ *Ibid*, 14.

in the Albigensian crusade.⁵⁵ While these tribunals would continue to address particularly local or national problems, such as those present in Spain, and grow in size and scope to meet the demands placed on them, the popes continued to address the problem of heretical societies at the level of the universal Church.⁵⁶ This reached a new level of urgency with the outbreak of the Protestant Reformation. The demands of this period of history resulted in the institution, by Paul III, of the Sacred Congregation for the Roman and Universal Inquisition, and which would be the preeminent congregation following the curial reforms of Sixtus V, with competence over all matters pertaining to the faith and in all cases of heresy, either at first instance or on appeal.⁵⁷

Throughout this time, the annual bull *In coenae Domini*, which was first published by Urban V in 1363, continued to list those sects whose members, and those who supported them, were excommunicated for heresy.⁵⁸

As MacKenzie notes, *In coenae Domini* directly informs the formulation of

⁵⁵ Henry Kamen, *The Spanish Inquisition, An Historical Revision*, 4th edition (New Haven: Yale University Press, 2014) 51.

⁵⁶ For a comprehensive account of the centralization of the Church's fight against organized heresy, and the institution of the Holy Office for the Roman and Universal Inquisition, see especially: John Tedeschi, *The Prosecution of Heresy* (New York: Medieval & Renaissance Texts & Studies, 1991) 127-203

⁵⁷ MacKenzie, 11-12.

⁵⁸ Urban V, papal bull *In coenae Domini*, 3 April, 1363; *Lettres Secretes & Curiales du Pape Urbain V, 1362-1370* (Paris: Bibliothèque des Écoles Françaises) 40.

Pius IX's constitution *Apostolicae Sedis* and the 1917 Code.⁵⁹ Its provisions against heresy as a group act which may be only loosely participated in or supported, must therefore inform our understanding of the treatment of heresy, and heretical groups, by those subsequent pieces of modern canonical legislation.

Taken in this light, the provisions of *In eminenti* against the Freemasons do not appear either novel or extreme. Rather, they appear to be a standard denunciation of an heretical sect which had been brought to the Pope's attention and which appeared to him to function like the various heretical sects which had come before, seeking to supplant or distort the Catholic faith among the people and presenting a danger to those Catholics who might associate with them. The admitted danger posed to the state as well as the Church underscores the similarity to the traditional treatment of heretical societies, which had been recognised for centuries as an enemy of the common good of society.

There seems to be an interesting conversation to be had concerning the notion of heretical sects in the 1917 Code and the appropriateness of including Masonic Lodges under that heading. Masonic sects are mentioned separately but grouped together with heretical sects in the 1917 Code,

⁵⁹ MacKenzie, 14.

though it is not clear from the text of the canon (on those to be denied Christian burial) if they are strictly analogous or merely of equal gravity.⁶⁰ What we do know, from the working of the penal *coetus* during the process for the revision of the Code of Canon Law, is that it was not the intention of what would eventually become canon 1374 of the 1983 Code of Canon Law to punish heresy, nor to imply that those organizations which fell under its provisions were to be considered necessarily heretical.⁶¹ We also should observe that the canonical concept of “heretical sects” is not present in the 1983 Code of Canon Law. In the concordant canons of the new Code, reference is made to “heretics” as individuals and there is no recognition of heretical sects.⁶² Coriden notes that the primary focus of the canonical treatment of heresy in the 1917 Code was Protestantism and, by extension all Protestant ecclesial communities were rightly considered heretical sects. After Vatican Council II it was made clear that heresy could only be applied to Catholics who had been either baptized or otherwise brought into full

⁶⁰ *CIC* 1917, c. 1240 §1: “Ecclesiastica sepultra privantur, nisi ante mortem aliqua dederint poenitentiae signa: 1°. Notorii apostatae aut sectae haereticae vel schismaticae aut sectae massonicae aliisve eiusdem generis societatibus notorie addicti.”

⁶¹ “Nam incompatibilitas cum fide catholica vel incidit in haeresim et tunc cadit sub can. 1316 vel non, et tunc non meretur tali gravissima poena.” Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em. mis Atque Exc. mis Patribus Commissionis ac Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Vatican City: Typis Poyglottis Vaticanis 1981) 303.

⁶² *CIC* 1983, c. 1184 §1, 1°.

communion with Rome.⁶³ If the major Protestant sects can no longer be understood as canonically heretical, whatever their theological status, it is unsurprising that the language of “heretical sects” is omitted from the 1983 Code, if for no other reason than to avoid confusion.

Heresy by Degrees

Having observed that there is a long and well established canonical notion of an heretical society or sect, it would be pleasing to simply observe that Masonry is such a society and therefore to join a Masonic Lodge is to commit an external and imputable act of heresy and incurs the provided *latae sententiae* penalty; *quod erat demonstratum*. However tempting it may be to reach for this conclusion, to do so would be to overlook a number of compelling points. While there is a demonstrable canonical history of imposing penalties on those who support heretical or condemned societies, this was not retained in what we may call the three modern syntheses of penal law in the Church: *Apostolicae Sedis*; the 1917 Code of Canon Law; and the 1983 Code of Canon Law. Furthermore, the term “heretical sects” has been omitted completely from the new Code. Recognising this trend away from the wider historical application of the penalty for heresy and the acts

⁶³ James Coriden, “The Teaching Office of the Church,” in *New Commentary on the Code of Canon Law*, 915.

which can constitute the delict, we must consider the wording of canon 751 in the 1983 Code what says: "Heresy is the obstinate denial or doubt, after baptism, of a truth which must be believed with divine and catholic faith."⁶⁴ In order to commit the delict of heresy and incur the penalty of canon 1364, it would seem that there must be a deliberate act against the faith by a Catholic in joining the Masons, mere association would not suffice.

Given the acknowledged pastoral problem which exists, at least in the United States, of numbers of Catholics who may have joined the Masons under the mistaken impression that the Church's teaching and canonical discipline on the subject had changed,⁶⁵ it is possible to conceive of the following scenario: if a Catholic joined a Masonic Lodge either confused or deceived about the Church's teaching and discipline, and did so simply by enrolling his name (filling out a form, for example) we can conceive that this action may, through ignorance and diminished culpability, not constitute a delict, either of enrolling in a prohibited society (canon 1374) or of heresy (canons 751, 1364). However, joining a Masonic Lodge is not effected by simply filling out a form. As was discussed in chapter II, joining a Masonic Lodge requires the candidate's participation in a series of elaborate

⁶⁴ Canon 751: "Dicitur haeresis, pertinax, post receptum baptismum, alicuius veritatis fide divina et catholica credendae denegatio, aut de eadem pertinax dubitatio."

⁶⁵ Pastoral Research and Practices Committee Report, "Masonry and Naturalistic Religion," *Origins* 15/6 (27 June 1985) 83.

ceremonies and the formation in and recitation of what is, effectively, the Masonic catechism. While a Catholic may approach a Masonic Lodge in ignorance, he still has responsibility for the content of his words and actions, including in the initiation rites of the Lodge. We must therefore consider what the Church deems to be the heresies of Freemasonry, their presence in the rites of initiation, and the Catholic candidate's affirmation of them during the course of the ceremonies.

Following their lengthy dialogue with the various federated Masonic Lodges of that country, the German Bishops' Conference produced a report, in 1980, which outlined the grave incompatibilities of Masonry with the Catholic faith.⁶⁶ This report was given considerable weight by both the penal *coetus* of the Code Revision Commission and the members participating in the *Congregatio Plenaria*. The *coetus* included within their work their own summary of the heresies of Masonry,⁶⁷ which had caused many to demand

⁶⁶ "Erklärung der Deutschen Bischofskonferenz vom 12 Mai 1980 zur Frage der Mitgliedschaft von Katholiken in der Freimauerei," *Archiv für katholische Kirchenrecht* 149 (1980) 164-165.

⁶⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Relatio Complectens Synthesim Animadversionum ab Em. mis Atque Exc. mis Patribus Commissionis as Novissimum Schema Codicis Iuris Canonici Exhibitarum, cum Responsionibus a Secretaria et Consultoribus Datis* (Vatican City: Typis Poyglottis Vaticanis 1981) 302-303.

"Ex qua ostenditur incompatibilitas inter sectam massonicam et Ecclesiam, seu:

- a) valor obiectivus veritatis negatur;
- b) negatur explicite religio revelata;

that an explicit mention of Freemasonry and a *latae sententiae* penalty be retained.⁶⁸ In their final recommendations on the subject, the *coetus* outlined the rationale for their decision to omit both explicit mention of Masonry and the automatic penalty in the draft of canon 1374. Their reasoning was; while Masonry was still manifestly incompatible with the Catholic faith, the reasons for this incompatibility essentially pertained to heretical beliefs. To include explicit mention of Masonry because of issues pertaining to the faith in the text of a canon now intended to deal with only the practical activity of societies would be to confuse the issue because, while Masonic doctrine was the same everywhere, the practical activity of the Lodge varied in different countries. Masonic Lodges were therefore to be properly understood, in the mind of the *coetus*, as always heretical and sometimes plotting against the Church.⁶⁹ This concept, that Masonry is always and everywhere heretical and

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- c) negantur dogmata religionis quia sunt, iuxta ipsos, contraria libertati;
 - d) essentia massoneriae est relativismus et subiectivismus, ergo negatur obiectiva veritatis cognitio;
 - e) negatur existentia Dei ut Ens personale qui hominibus se ipsum revelat;
 - f) ius et officium est Ecclesiae indicare fidelibus quod fidei funestum sit.”

⁶⁸ Ibid: “Sequentem textum proponit Card. Oddi: Qui nomen dant sectae massonicae aliisque consociationibus quae contra Ecclesiam machinantur, contrahunt ipso facto excommunicationem Sedi Apostolicae reservatam.”

⁶⁹ Ibid: “Nam incompatibilitas cum fide catholica vel incidit in haeresim et tunc cadit sub can. 1316 [canon 1364 in the 1983 Code] vel non, et tunc non meretur tali gravissima poena. Ad practicam activitatem (machinationem) quod attinet, notetur quod massoneria non eadem est in omnibus nationibus.”

that this may not be reflected in the practical activity of a particular Lodge, was reflected in the debate of the *Plenaria*. It was explicitly stated by Cardinal Šeper, then prefect of the Congregation for the Doctrine of the Faith, that the heresies of Masonry which were enumerated by the German Bishops in their report, and reaffirmed by the *coetus*, were not particular to Germany but present in Masonry globally.⁷⁰ Both he and Cardinal Ratzinger, who would sign the declaration of the Congregation for the Doctrine of the Faith clarifying that Masonic membership was still canonically proscribed in the 1983 Code, wished to retain both the automatic excommunication and the explicit mention of Freemasonry in canon 1374.⁷¹ Their reasoning was that while the philosophy of Masonry was clearly antithetical to the faith, to alter the text of the canon to treat a new, more literal, understanding of *machinatur* and consider Masonry to be implicitly understood as heretical would run the risk of further confusing the situation.⁷² As the debate continued, it became apparent the disagreement was not on whether Masonry was heretical but, rather, if it should be accepted that the understanding of *machinatur* change to mean active plotting, or if the

⁷⁰ *Acta et Documenta Pontificiae Commissionis Codici Iuris Canonici Iuris Canonici Recognoscendo: Congregatio Plenaria (Diebus 20-29 octobris 1981 habita)* (Vatican City: Typis Polyglottis Vaticanis 1991) 316: “Hoc non est res Germanicae sed res totius mundi.”

⁷¹ Ibid, 319-320.

⁷² Ibid, 317.

traditional understanding of Masonry as a plot against the Church through its promotion of relativistic and religiously indifferent philosophy should be retained to avoid confusion.⁷³ Cardinal Höffner summarized the true focus of the debate succinctly when he said that there was no question among the participants that Masonry was against the doctrine of the Church.⁷⁴ It being accepted, at all levels of deliberation of the Code Revision Commission, that the beliefs of Masonry are antithetical to the faith, and this being expressly stated in an authoritative decree from the Congregation for the Doctrine of the Faith,⁷⁵ it only remains for us to consider if these heretical beliefs are sufficiently espoused, in word or deed, by a Catholic candidate participating in the rites of initiation for Blue Lodge Freemasonry to incur the penalty for the delict of heresy provided by canon 1364.

We should immediately recall, as was discussed in chapter II, that upon presenting himself for initiation into the Lodge at the first level, that of Entered Apprentice, the candidate asserts that he presents himself freely and sincerely with the intention of gaining knowledge and wisdom from

⁷³ See especially the interventions of Cardinals Šeper, Ratzinger, Palazzini, Höffner, Felici in *Ibid*, 317, 319, 320-1, 322, 324 respectively.

⁷⁴ *Ibid*, 322: “Quaestio nobis proposita non est utrum secta massonica sit contra doctrinam Ecclesiae; hoc non negatur.”

⁷⁵ Sacra Congregatio pro Doctrina Fidei, *Declaratio*, AAS 76 (1984) 300.

Masonry.⁷⁶ The candidate announces himself, or has a member of the Lodge announce him, as “Mr. X, who has long been in darkness and now seeks to be brought to light.”⁷⁷ This darkness is explained in Masonic literature, which the candidate must study and upon which he will be examined during the course of the rite, as the darkness of ignorance under which he has labored his whole life. The light which he seeks is the light of Masonry, which alone can bring him to proper understanding of himself, God and even Christianity.⁷⁸ The candidate then undergoes a ritual which we might call a Masonic baptism, complete with the presentation of a white garment to symbolize his new purity in Masonic truth.⁷⁹ The significance of this ritual is to present an extermination of the man's previous life of ignorance and superstition and a new, changed, life henceforth as a Mason.⁸⁰ If we recall the

⁷⁶ Malcolm Duncan, *Duncan's Masonic Ritual and Monitor*, 3rd edition (New York: Crown, 1976) 27-28.

⁷⁷ Duncan, 29.

⁷⁸ Albert Pike, *Morals and Dogma of the Ancient and Accepted Scottish Rite of Freemasonry* (Charleston: Supreme Council of the Thirty-Third Degree for the Southern Jurisdiction of the United States, 1881), 105: “Truth, which Masonry calls Light... is not for those who are unworthy or unable to receive it... The Teachers of Christianity are, in general, the most ignorant of the true meaning of that which they teach.”

⁷⁹ For a detailed examination of the ritual, and the attendant Masonic literature, see chapter II, “Into the Darkness.”

⁸⁰ Albert G. Mackey, *Masonic Ritualist* (New York: Clark & Maynard, 1869) 23: “Having been wandering amid errors and covered over with the pollutions of the outer and profane world, he comes enquiringly to our doors, seeking the new birth, and asking a withdrawal of the veil which conceals divine truth from his uninitiated sight... There is to be, not simply a change

principle heresies of Masonry as described by the German Bishops' Conference and affirmed by the Commission for the Revision of the Code of Canon Law, and the examples given by the Holy See of those doctrines which must be believed with divine and catholic faith,⁸¹ we may summarize a typical situation in which a Catholic joins a Masonic Lodge thus:

The (Catholic) candidate presents himself at a Masonic Lodge. He then strips himself of all articles, including crucifix and wedding ring, in preparation for the ceremony. He identifies himself as one who has spent his whole life (including his Christian formation and baptism) in ignorance and who now seeks the wisdom of Masonry, by which he intends to order his life hereafter. He affirms, under oath, both the freedom and sincerity of his actions. He undergoes a quasi-baptism. He passes an oral examination on Masonic teaching to demonstrate his total understanding of what he is doing and saying.

This is a deliberate, external rejection of several fundamental teachings of the Catholic faith including: the salvific and necessary character of his baptism; the divine institution of the Church and her role as the recipient and interpreter of revelation; the sufficiency and necessity of the

for the future, but also an extinction of the past... the chains of error and ignorance which have previously restrained the candidate in moral and intellectual captivity are broken."

⁸¹ See notes 22, 67.

Christian faith for salvation. The denial of any one of these can be said to constitute an act of heresy. While the candidate may arrive at the Lodge door in genuine confusion or ignorance regarding the enduring canonical prohibition of joining a Masonic lodge *qua* society, he is nevertheless responsible for his words and actions in the course of the ritual of enrolment, in which he actively participates and attests to his understanding, and by which he rejects various teachings of the Catholic faith. Should the Apprentice continue, as is expected, to the rank of Master Mason, he will further learn, and himself affirm, that the Catholic Church is an agent of spiritual and temporal tyranny which he should fight against and consider himself to be acting as God's agent in opposing.⁸² He will undergo another blindfolded and half-naked ritual in which he will simulate his own death and resurrection, and he will be taught that it is Masonry which will teach him to interpret sacred scripture instead of the Church.⁸³

⁸² Pike, 75-76: "The Church of Rome claimed despotism over the soul, and over the whole life from the cradle to the grave. It gave and sold absolutions for past and future sins. It claimed to be infallible in matters of faith. It decimated Europe to purge it of heretics. It decimated America to convert the Mexicans and Peruvians. It gave and took away thrones; and by excommunication and interdict closed the gates of Paradise against Nations...To seek to subjugate the will of others and take the soul captive, because it is the exercise of the highest power, seems to be the highest object of human ambition. It is at the bottom of all proselytising and propagandism from that of Mesmer to that of the Church of Rome... And if it be not in human nature not take revenge by way of punishment, let the Mason truly consider that in doing so he is God's agent."

⁸³ For the entire ritual, see: Duncan, 87-149. For an analysis of it, see chapter II, "Mastering the Craft."

Conclusion

It has been demonstrated that there was a conscious decision on the part of the Commission for the Revision of the Code of Canon Law to change the canonical meaning of the term *machinatio* from its historical definition, which included holding and promoting teachings contrary to the faith, towards a more literal understanding of active sedition. Under this new definition, it is possible to conceive of Masonic Lodges which, since they do not appear to positively act against the Church, do not come under the provisions of canon 1374 of the 1983 Code. While this is by no means always the case with every Lodge, it falls within the proper sphere of action of the diocesan bishop to determine the matter; such an instance was examined in the previous chapter.

It has also been demonstrated, having examined the intentions of the Code Revision Commission and the declarations of the Congregation for the Doctrine of the Faith, that Freemasonry always and everywhere constitutes an heretical philosophy. In the light of canonical tradition, it seems that Masonry is what has been historically termed an “heretical sect” and the original sanctions, from the time of Clement XII, against Catholics associating or supporting Masonic Lodges are in keeping with the penalties imposed for Catholics who supported or participated in other heretical sects.

It is equally clear that, over time, the canonical notion of heretical sects evolved and was eventually dropped from the 1983 Code of Canon Law.

This being the case, while it may still be linguistically accurate to describe Freemasonry as an heretical sect, this term is no longer relevant in assessing the canonical ramifications of a Catholic becoming involved with a Lodge. The direction of travel in canonical reform concerning the delict of heresy is towards a focus on actions taken by individual Catholics and the significance and consequences of these actions. In the case of a Catholic joining the Freemasons, examination of the rites of initiation which he must undergo to join a Lodge show that essential parts of this process involve implicit and explicit denials of articles of the Catholic faith, sufficiently serious to be properly termed heresy. While a Catholic may be in genuine doubt or ignorance about the proscription of Catholic membership of a Lodge *qua* prohibited society, his participation in Masonic instruction, and frequent assertions under oath of freedom, sincerity, and understanding within the rituals, leave no room for doubt that he understands and is aware of the meaning of what he is saying and doing. The content of these rituals can be properly termed an external and imputable act of heresy on their own merits, and the commission of the delict is unrelated to the resulting membership of a society which may or may not be covered by canon 1374. Put simply: participation in the initial rituals of Freemasonry would still constitute an act of heresy even if they did not, and were not intended, to confer or acquire membership in a Lodge.

Canonically speaking, a Catholic does not commit heresy by joining a Lodge. Rather; in the process of joining a Lodge, a Catholic participates in rituals which constitute an act, or acts, of heresy.

General Conclusions

Given the tangled and obscure origins of Freemasonry, and the confused manner in which it first made its way from England across Europe, it is surprising to note how timely, focused, and consistent the Church's condemnation of Freemasonry has been. It is remarkably clear that Masonry, from the time of the first papal condemnation in 1738, was proclaimed to be a group embodiment of a particular philosophy, itself a fruit of the Enlightenment and one which was not just alien to the Catholic faith but a positive danger to it.

The antagonism between Masonic sects and the institutional Church is almost as old as Masonry itself, with a well-documented history of armed conflict across much of the western world, especially in such predominantly Catholic areas as Spain, the Italian peninsula, Latin America, and France. In areas where Masonry has been seen to be a relatively benign presence, especially in the United States, where it has traditionally enjoyed and still today enjoys its greatest level of social respectability, the conflict has been of a different sort, with proven Masonic efforts to exclude the Church from the sphere of civil affairs. This active hostility, either openly or more discreetly, has often distracted commentators from the underlying philosophical opposition which Masonry brings against the Church, it is this particularly

virulent strain of relativism which stands in total opposition to the deposit of objective truth, divinely revealed and entrusted to the Church. That the Masonry has been an implacable enemy of the Catholic Church since its inception is not the child of cultural context or historical coincidence. Rather it is the inevitable expression of an understanding of the nature of truth, of humanity, and of God which cannot accommodate, or be accommodated by, the one true faith.

By condemning Freemasonry by name, and canonically censuring Catholics who joined a specifically Masonic society, there was no impetus to consider what Masonry really was in the mind of the Church, it was condemned by name and accepted as a threat *sui generis*. As time went on, and as open conflict with the Church subsided following her successful displacement as an instituted authority in civil society, Masonry faded into the cultural background. Starting from the assumption that Masonry was condemned for acting against the Church, it began to be asked; if they stopped acting, did they cease to be condemned? This has proved the focus of much of the commentary and debate surrounding the meaning and applicability to Masonry of canon 1374 of the Code of Canon Law.

If, however, we consider: why Masonry acted against the Church; what was its motivating philosophy; why was it condemned even before open conflict with the Church, then we find ourselves examining the philosophy which the society embodies and advances. This proper consideration formed

the focus of the lengthy dialogue between the German Bishops' Conference and the Lodges of that country, and which led them to the conclusion that Freemasonry and the faith were totally incompatible. This conclusion was debated and supported by the Commission for the Revision of the Code of Canon Law. At the same time, it was thought that maintaining Freemasonry as the standard of comparison within the canonical delict of joining a society which plotted against the Church would be inappropriate. Masonry exists in the common consciousness as a secret, esoteric, and ritual society. Many of the modern societies which are held to plot against the Church, such as the Communist Party, share none of these traits. It was decided to omit explicit mention of Freemasonry from the text of canon 1374 so as to allow for a broader understanding of what such a society might look like, and never meant to suggest Masonry was no longer such a society.

One of the fruits of the extensive examination of Freemasonry which took place as part of the process of reform of the penal law of the Church was the concise articulation of the heretical aspects of Masonic philosophy. These include especially: the denial of the necessity and efficacy of baptism; the denial of objective truth and our ability to know it; the denial of divine revelation and the Church's guardianship of it. These denials of fundamental teachings of the Catholic faith are given unique and explicit expression by a candidate in his ritual initiation into a Masonic Lodge, sufficiently so that we can conclude that for a Catholic to join a Lodge is for him to commit the

canonical delict of heresy and incur the *latae sententiae* penalty of excommunication provided by canon 1364 of the 1983 Code of Canon Law. This act of heresy is constituted by the words and actions of the candidate during the course of his initiation. While these words and actions are required by the Masons for admission to membership, membership itself is not required for the Catholic candidate to commit the delict; his membership of a society which may plot against the Church is a secondary consequence of his heretical actions.

While this work has proved a fascinating study of the Church's long and involved treatment of Freemasonry, it is hoped that it will not be considered or used as an end in itself. This treatment of Masonry, and specifically the relevance of not only what it *does* but *believes*, and the canonical consequences, for a Catholic, of membership and public ascription to those beliefs, is intended as a pathfinder work. It will hopefully stimulate others to consider the activities and beliefs of other, perhaps more socially prominent, organizations and especially political parties, and what the canonical significance of membership might be for a Catholic.

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