

INSTITUTES OF PERFECTION IN THE NEW LAW OF THE CHURCH

MANY INSTITUTES of the consecrated life are asking questions about their situation and their future in the Church. Many, too, on the occasion of the special chapters of renewal have bemoaned the fact that the code of canon law of 1917 had saddled them with an inflexible and over-uniform rule, and had petrified their life in community.

Renewal means a return to the gospel, liberty of spirit, charismatic initiative, fidelity to the spirit of the founder and to the particular characteristics and spirituality of the Institute; it means, for religious, apostolic action adapted to the particular situation, professional expertise as well as corporate works, and a formation suited to the type of life and apostolate of the Institute. Renewal, then, demands freedom to set straight or to re-organize the fundamentals of the Institute and all the various aspects of its life. The time and energy which Institutes have already given to this work is a clear sign of a generosity and fidelity to the God who calls and inspires, and to the Church whose duty it is to recognize God's gifts and graces.

Religious therefore have a right to know what is to happen to Institutes of perfection in the new legislation of the Church. In answering their questions, we must notice first that it is no longer a matter of a simple adaptation of the section of law 'on religious', with the addition of an appendix on 'societies of common life without vows which approximate to religious life'. In 1947 the Church approved a new kind of consecrated life, the secular Institute. The distinction thereby introduced in canonical legislation between three states of perfection, 'religion', the 'society', and the 'institute', brought a notable alteration into the perspectives of the code. According to one view, the first state – religious life – was the most complete; and societies of common life or 'religious societies' were approximations to this ideal. The third form of life, the secular Institute, was a kind of religious life twice removed. Now, however, secular Institutes have emphasized their own charism and underlined the original character of their vocation in the Church, in order to maintain and to reinforce the secularity of their consecrated life. They are not religious. But they have had to struggle to remain faithful to their own distinct vocation and special graces. Since the code, and particularly since 1947, a tendency towards co-ordination and centralization made itself increasingly felt. Common law strengthened its hold on religious life, seriously hampering any initiative. The reaction provoked by these tendencies has developed into a movement, a new and more spiritual vision, whereby the Institutes of the perfect life have been led to seek and to find their own proper character according to the different forms of consecrated life enumerated by Vatican II.

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It is in this new context that the commission for the revision of canon law began its work. And in the review *Communicationes*, along with the reports of the other study groups, there has appeared a report on the work of the group concerned with 'Institutes of perfection'.¹ Today this title replaces that of chapter VI of the Dogmatic Constitution on the Church, 'Religious'; though it cannot be said that the change is a particularly happy one. (Of course, we are not interested merely in the work of the study group on 'Institutes of Perfection'. These Institutes are also considered in the 'fundamental law', and in the work of the various groups studying categories of persons, the hierarchy and the apostolate, missions and parishes, exemption and collaboration.)

It will be useful to notice first of all what the report has to say on the change of title:

To understand this better, we must recall what has already been said about the extension of the term 'religious' in the constitution *Lumen Gentium*. In chapter VI of this constitution it is clear that the fathers of the council understood by this term all those who have received the divine gift for living according to a certain and manifest way formally constituted by the Church, in which they profess the evangelical counsels. Otherwise the following statement would not have been made: 'Christ's faithful bind themselves to the practice of the evangelical counsels by vows or by sacred bonds similar in nature to vows. By such bonds they deliver themselves entirely into the hands of God, their supreme love, in such a way that they are marked out for the Lord's glory and service by a new and special title'.²

All those who receive the charism of vocation to follow the way of the evangelical counsels can be called 'religious', in so far as they dedicate themselves totally to God, openly and manifestly, in an Institute recognized by the Church; and, in addition to the form of observance of the evangelical counsels, in so far as they are safeguarded by a vow or by some other sacred bond.

In the decree *Christus Dominus*, the fathers of the council speak in the same way. They address themselves, in fact, 'to all religious, to whom in this section of the document are added the members of all other Institutes which make profession of the evangelical counsels each according to his proper vocation'.³

However, the decree *Perfectae Caritatis* makes a clear distinction between 'religion' or the 'religious Institute', the 'society of common life without vows' and the 'secular Institute', and among the respective members of these different Institutes.⁴

Further, it states expressly that secular Institutes are not religious

¹ *Communicationes* 2 (1970), pp 173-81.

² *Lumen Gentium*, 44.

³ *Christus Dominus*, 33.

⁴ Cf *Perfectae Caritatis*, 1.

Institutes, although 'the profession they make in the world of the evangelical counsels is officially recognized by the Church as authentic and complete'.⁵

This is the reason why, in order to avoid every possible ambiguity, the general title of our study group, 'Religious', which was to introduce the whole of this part of the code, has been changed to that of 'Institutes of perfection'. It includes all those Institutes which, under one form or another and approved by the Church, make public profession of the evangelical counsels, either by vows or by other sacred bonds.⁶

This is the crucial text which formulates the problem exactly. It helps us, certainly, to overcome the ambiguity maintained by *Lumen Gentium* which the decree *Perfectae Caritatis* laboured to shake off. (*Lumen Gentium* however, avoids using the term 'state of perfection'; but it does use the same terminology in the title 'Institutes of perfection').⁷ We ourselves prefer the terms 'consecrated life' and 'Institutes of consecrated life'. They are becoming common currency, and the council itself made use of them.⁸ With regard to the title of chapter VI of *Lumen Gentium*, it does not seem to have any doctrinal significance. Its choice was due to the insistence of the Abbé de Beuron, who thought that it was better to use a term which would cover the greatest number of consecrated persons.⁹ With regard to the decree *Christus Dominus*, it should be pointed out that those who drafted it were not as concerned about the question as were those who drafted *Perfectae Caritatis*. So, in the latter text, all possible ambiguity is avoided by the statement 'Secular Institutes are not religious institutes'. This statement is also of benefit to societies of common life, as we shall see later on.

THE STUDY GROUP ON 'INSTITUTES OF PERFECTION'

This study group held its first two sessions in November 1966 and in May 1967. At that time, the chairman of the group was Fr Tarcise Amaxal, a redemptorist. When he was elected superior general of his Institute in December 1967, his place was taken by Fr Mark Said, O.P., the dean of the faculty of canon law at the Angelicum in Rome. Further meetings were held in January and in April 1968. After this fourth session the title of the study group was changed from 'Religious' to 'Institutes of perfection'. The plan of the new code was drawn up by a special study group; it was approved by

⁵ *Ibid.*, II.

⁶ *Communicationes* 2, pp 173-4.

⁷ The term 'Institutes of perfection' is to be found in *Lumen Gentium*, 45. Surprisingly enough, the expression is avoided in the draft of the 'Fundamental law', on the grounds that it is not used in the dogmatic constitution on the Church!

⁸ *Perfectae Caritatis* I, speaks explicitly of 'the life consecrated by the profession of the counsels'.

⁹ Cf our study *Vita per consilia evangelica consecrata* (Rome, 1969), pp 18-27.

the commission for the revision of canon law on 28 May 1968.¹⁰ Since that time there have been four further sessions, the last one in May of this year. The group has now produced the draft of the general part of the new law for Institutes of the consecrated life.

What the earlier sessions did was to set the work of the group in its proper perspective and to draw out the guiding principles according to which the work must proceed. As Fr Said remarked:

The Institutes and the persons for whom this legislation is intended are in a unique situation. Although the religious state belongs 'inseparably' to the life and the holiness of the Church, it does not belong to its hierarchical structure.¹¹ It is not an intermediary state between the clerical and the lay states.¹² And yet religious, as such, cannot be defined as clerics or as lay people. The religious Institutes owe their origin to the charismatic impulse given by the holy Spirit to their saintly founders. And yet they do not become religious Institutes until they are made so by the authority of the Church. The members of these Institutes have need of a divine vocation in order to dedicate themselves wholly to the service of God by the practise of the evangelical counsels and by renouncing the world; and yet they are, at the same time, intimately associated with the salvific mission of the Church.

It is significant that the chairman continues to speak of 'religious', in order to designate those Christians who dedicate themselves totally to God by the profession of the evangelical counsels and are thus, under new titles – the vocation of the founder, the divine call, the specific characteristic of the Institute – associated with the salvific mission of the Church: that is to say, with its life and with its apostolate.

The commission's first difficulty concerned this term 'religious'. This is what the chairman has to say:

The term 'religious' covers a great variety of forms of life consecrated to God – a variety which 'has been of great service to the Church in helping her to be equipped for every good work and ready to fulfil her ministry for the building up of Christ's body, to be arrayed, as well, in that variety of gifts she has received from her children, and to show herself as the bride prepared for the meeting with her bridegroom' (*Perfectae Caritatis*, 1).¹³

The notion of 'religious' and of the religious state underwent a slight change at the council. It referred in fact

¹⁰ Cf *Communicationes* 1 (1969), pp 101–13.

¹¹ *Lumen Gentium*, 44.

¹² *Ibid.*, 43.

¹³ *Communicationes* 2, p 169.

To the christian who consecrates himself entirely to God, not only by public vows taken in an Institute where life in common is in force, as was previously prescribed (that is, in canon 487), but also by other sacred bonds similar in nature to vows (*Lumen Gentium*, 44).¹⁴

The chairman notes the expansion of the idea of a 'religious' at the council. If the religious state depended only on vows, the observation would already be of great importance and the motive given would be sufficient for a reconsideration of the problem, even from the canonical point of view. However, if societies of the common life were to be called religious because of the obligations undertaken by their members, in order to do them justice, account should have been taken of their mission and the concrete forms of life on which these sacred bonds rested. The constitution *Lumen Gentium* had no opportunity for making such an assessment. However, a more intense investigation into the nature of the religious state and a closer examination of the extension given to the term 'religious' became urgent, because the religious discipline, as it had been formulated in the code of 1917, obviously needed a radical revision in order that it might be adapted to the new conditions of life in the Church and to the needs of our times.

The point of departure for the study group had been the conciliar texts. They devoted their first two sessions to formulating a 'descriptive' definition of the religious state from the theological as well as the juridical point of view. The various problems discussed were the situation of monks and of secular Institutes, the nature of the vows, solemn and simple, and the problem of exemption. From these meetings there emerged, at least in general outline, a new legislation for monks, hermits or anchorites, and cenobites. The first attempts to distinguish secular Institutes (as a consecrated life 'in the world') from religious were perhaps a little facile.

Moreover, the reason why the commission had moved away from the structure of the code to the point where secular as well as religious Institutes would be subsumed under the one term 'Institutes of perfection' taken from the Constitution *Lumen Gentium*,¹⁵ was the anxiety to preserve and develop the particular spirit of the various Institutes, their autonomy, their constitutions, and most important of all the character of the life given to the Lord. We shall see how important this change was for the research of the study group and for the structure of this part of canon law in the new code.

The group took up where the decree *Perfectae Caritatis*¹⁶ and the *motu proprio Ecclesiae Sanctae*¹⁷ left off. Of particular importance to the research were 'the guiding principles of the revision of canon law', approved by the Synod of Bishops.¹⁸

¹⁴ *Ibid.*

¹⁵ *Lumen Gentium*, 45.

¹⁶ Several principles of renewal are defined in the decree, especially in section 2.

¹⁷ The *motu proprio* is a most important text for all that concerns the constitutions and statutes of Institutes of consecrated life. Cf nos 12-14 (*Supplement to The Way* 4, pp 12-15).

¹⁸ *Communicationes* I, pp 77-100.

THE FOUR GUIDING PRINCIPLES FOR THE REVISION
OF CANON LAW ON 'INSTITUTES OF PERFECTION'

These principles may be formulated as follows:

- i) Juridical norms, though they do not contain the gifts and graces proper to the consecrated life, ought nevertheless to foster the growth of this *divine vocation*.
- ii) The norms ought to promote the knowledge and maintain the spirit of the founder, and encourage *fidelity* to the spiritual heritage and the particular constitution of each Institute.
- iii) Though the norms must re-affirm the constitutive principles of this state of life, they must also assure that *flexibility* necessary for adaptation to the conditions of the life and work of these Institutes in the Church.
- iv) The norms must also ensure a greater participation of the members in the life and government of their Institutes; they must also achieve a better representation of the members and a better choice of superiors.

These, however, are not the only principles relevant to the work of revision. Other principles, set out in the report of the study group, are, in our view, of equal importance.¹⁹

- a) General norms should concern only those matters which are appropriate to all; each Institute must have the right to retain its own identity, or better, to become what it was in the understanding of its founder.
- b) All discrimination between Institutes of men and women must be avoided. Women religious have no need of a tutelage which limits their free development.
- c) Provision should be made in the general law for a just application of the principle of *subsidiarity*, leaving to each Institute its own responsibility.
- d) The greatest possible harmony should be achieved between common law and the particular law of each Institute; leaving to each Institute true liberty for establishing norms which are suitable to their life and their work within the limits indicated by the exigencies of common law.
- e) The greatest possible respect should be accorded to the dignity of the human person, his rights, his personal responsibilities, and his normal development, to enable him to achieve physical and psychological maturity.

¹⁹ We have picked out the principles embedded in Fr Said's commentary. Reference is frequently made to them in the work of the study group directed by the canonist Fr Raymond Bidagor S.J.

Let us now examine more in detail what these guiding principles envisage.

Law and Grace

Law can never express the riches contained in God's call to the consecrated life; but it can create the circumstances favourable to this divine gift, assist the work of grace, protect this life and help the members of these Institutes to achieve the perfection of charity. In virtue of this principle, the study group must seek 'to avoid a plethora of laws'.²⁰ The particular law must always leave the members of the Institute the greatest possible freedom for initiative and spontaneity in an adult and joyful spiritual life; and yet at the same time it ought to inspire such a life. The study group also seeks to avoid the fairly common notion, even amongst consecrated persons, that formal and external observance, both of common law and of the Institute's own rules, is sufficient to achieve perfection.²¹ It is with this double purpose in view that the study group seeks to combine with the juridical elements others which are theological or scriptural in character, as long as this can be done without injury to the clarity and precision of the law.²²

Finally they will add to strictly juridical norms certain canons of a pastoral character, which are to be more hortative.²³

Fidelity to the Spirit

With a close eye on the norms given by the council, the study group wishes to advance the knowledge and preservation of the founder's spirit, to help Institutes to capitalize on their spiritual inheritance, to have a proper respect for their own character, goals and sound traditions. There are two practical applications emanating from these considerations:

- i) 'To define only general principles applicable to all Institutes, and in such a way as to leave them the liberty necessary to achieve their goals'.²⁴
- ii) 'To avoid the danger of over-precise and detailed laws: such legislation is not only difficult to apply, but highly disadvantageous, in that it tends to reduce Institutes to a "least common denominator", to the detriment of the nature and spirit of each institute'.²⁵

The chairman here underlines the conciliar insistence on the same point.²⁶ He also notices that Paul VI, in *Ecclesiae Sanctae*, afforded to general chapters of Institutes ample freedom to make changes and to set up experiments for

²⁰ *Communicationes* 2, p 171. This principle is at the root of all codifying. It presupposes more general prescriptions which rather resemble a 'legal framework than a general and uniform body of laws'. ²¹ *Ibid.*

²² *Ibid.* To cite from sacred scripture in juridical texts is a particularly delicate matter; because of the peculiar context, such citations can easily be subject to distorted interpretation. ²³ *Ibid.* ²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Perfectae Caritatis*, 2 and 3.

the revision of their own constitutions.²⁷ The overall purpose here is 'to remedy the defective legislation of the code with regard to religious which, in its attention to detail, descends to the sort of minutiae which should never find expression in common law'.²⁸

It is a cause of satisfaction to see the law of the Church opening itself more and more to the variety of the Spirit's gifts. It will help to make the Church more ready to receive and understand the charisms of new foundations, which the Lord gives to his people for their vital renewal and rejuvenation. These new ways and this new future will involve new obligations for Institutes.²⁹

Flexibility

The aim of law should be to provide a structure and an expression for the very life of the Institute. In view of the need for adaptation and that continuous renewal which the life of the Church and the needs of today's world calls for, the revised canon law should re-affirm the constitutive principles of the consecrated life and should ensure that flexibility in its norms which can cope with the many demands of the modern situation.

The *constitutive principles* of consecrated life in Institutes of perfection are 'the same for all those who wish to follow Christ by way of the evangelical counsels'.³⁰ So the study group accepts as the basis of this life, the foundation on which Institutes of perfection will rest, the *sequela Christi*: the following of the poor, virginal and obedient Christ. The Council is clear on this point. With regard to *disciplinary* norms: 'the great variety of Institutes of perfection, the vast differences in aim and object, in character and structure, the rapid change in the living conditions of their members and of the circumstances in which they exercise their apostolate: all this demands the greatest possible flexibility in legal norms'.³¹

For the law giver all this means the application of the principle of subsidiarity, which was approved by the synod of bishops as one of the 'guiding principles of the revision of canon law';³² its application would seem to be

²⁷ Cf *Supplement to The Way*, 4 (1967), pp 8-10.

²⁸ *Communicationes* 2, p 171.

²⁹ Amongst others, the serious education of religious of both sexes in theology, canon law and church history. This was one of the sore points of renewal chapters, which were so often poverty-stricken in this regard. As a consequence, 'experts' were called in from outside, who did not know the Institute and imposed norms which can only be called 'sociological'; these have had an influence which has led to a uniformity far more complete than the old canonical prescription. One can discover in one chapter after another the traces of certain sociologists and psychologists affecting renewal and imposing directives.

³⁰ *Ibid.*, p 172. This principle may need further consideration, because of possible ambiguity. There are some who regard the counsels as 'fixed entities', whereas, precisely because they are counsels, they need to find their particular expression in each Institute of consecrated life.

³¹ *Ibid.*

³² *Communicationes* I, pp 80-82. Note, however, that in certain chapters the principle of subsidiarity has been conceived entirely in terms of decentralization, without any

more necessary here than in any other part of the canon law.³³ What the common law can no longer achieve will become the task of the statutes of the individual Institutes. As we shall see later on, this involves Institutes in a very special obligation: it will be for them so to structure their constitutions that these give dynamic expression to their institutions and their members' lives.

Participation and Union

All Institutes of perfection, especially those whose members live in community, ought to dwell in oneness of mind and heart; more than this, the source of their action ought to be the very graces which unite them. This principle is fundamental. It must become operative, not only in response to the wishes of the council, but in order to bring about the necessary change in understanding and in living the consecrated life, especially in religious Institutes. 'This guiding principle, says the chairman, 'is unintelligible to those who have no more than a nodding acquaintance with religious Institutes – especially of women'.³⁴

This is certainly the mind of the council: 'The chapter and general councils will faithfully discharge their proper function in government. The various instruments of government must allow, each in its own way, for the participation and involvement of all the members for the well-being of the whole community'.³⁵

Superiors will so treat the brethren 'that they cooperate with positive and responsible obedience in undertaking tasks and acting on their own initiative, in a common effort for the good of the Institute and of the Church'.³⁶

If the constitutions are to be revised in such a way that all the members of the Institute can take part in government and in its most important decisions, it is obvious that the common law must take special precautions to prevent and to suppress abuses. Like the Institutes themselves, they need to take into account the 'character, spirit and good of each Institute'.³⁷ Government needs to be organized in such a way that the power does not remain over-long in the same hands;³⁸ which does not mean that general

reference to the particular nature of the Institute. The principle displaces from, but also brings back to, the centre, in so far as the lower echelon can act of itself, but also has need of help as a remedy for its deficiencies.

³³ *Communicationes* 2, p 172.

³⁴ *Ibid.*, p 172, iv).

³⁵ *Perfectae Caritatis*, 14. ³⁶ *Communicationes* 2, p 172, iv). Cf *Perfectae Caritatis*, 14.

³⁷ *Communicationes* 2, p 172-3.

³⁸ *Communicationes* 2, p 172, iv). However, this principle needs further qualification. Too often those in charge do not have sufficient time to gain the experience they need or to co-ordinate works which require continuity and close personal attention in their execution. Again, the abbacy in a monastery of the authentic contemplative life presupposes election for life or for an indefinite period. This is an essential point in the benedictine rule. It is not easy to find the truly competent person; but the practice of successive elections will not help to find a better candidate; nor will it assure the life and peace of the monastery.

norms can be imposed without the necessary discretion.³⁹ 'The study group has set itself the task of formulating the prescriptions of general law in such a way as to encourage the tendency to a wider participation in government and decision-making, whilst leaving the Institute a large measure of liberty with regard to the method and mode of representation and fuller participation of the members'.⁴⁰

We must now consider the guiding principles as they are set out in the report of Fr Said. Their importance is such as to need special emphasis; and this may well forestall over-hasty or untoward criticism.⁴¹

The new legislation, in stressing the principle of subsidiarity, takes into account three types of consecrated life: religious (monastic and apostolic), apostolic societies and secular Institutes. During the discussions it was noticeable how difficult it was to rid oneself of the image of the 'conventual' religious, with all the notions which are linked to cloister: exclaustation, secularization, flight and fugitives. One had to make a continual effort to set out general norms without imposing on secular Institutes what was customary or special to religious. The commission gradually became more aware of the problems concerning the different kinds of religious life with which they would be confronted in the special Part of the new legislation. It is no longer a question of revision or even a remoulding of previous law – but of new law: from the point of view, at least, of the spirit which must inspire it and the flexibility it will incorporate. Fr Said had the right word for it:

The great variety of Institutes of perfection with their immense diversity of goals, character and structure, the rapidly changing social conditions in which their members live and work: all this demands an enormous elasticity in the prescriptions of the common law. Otherwise it will be impossible to apply them to all Institutes and to all their members.⁴²

It is in this perspective that the work on the first and general Part was conducted. It will be all the more necessary when one comes to consider the various types of consecrated life: Institutes dedicated to contemplation, apostolic Institutes, Institutes of presence in the world. One sentence of the report is of particular significance:

The general section of the present *schema* can be applied to all Institutes of perfection, not merely those now existing in the Church, but also those which might come into existence in the future.⁴³

³⁹ This remark is evidence enough that there is no desire in the new law to impose fixed and obligatory prescriptions in this delicate matter.

⁴⁰ It is obvious that the very large Institutes of over 10,000 members can hardly achieve the participation of all their members in the general government. In such cases enquiries and consultation are often of little use or at least doubtful, because objective and adequate information on the matters for discussion is usually lacking. One is also at the mercy of pressure groups.

⁴¹ *Communicationes* 2, pp 173–81.

⁴² *Ibid.*, pp 172, iii) and 176, 6.

⁴³ *Ibid.*, p 176, 6.

An outrageous claim? Perhaps. However, this principle frees from all constraint the latest legislation now in process of formation. It makes us look at the phenomenon of religious life, not so much as it is now, but as it is going to be. It directs our attention to what experience shows is the essential: that is, what every Institute of the consecrated life ought to be, if it is to be faithful to its inspiration and to fulfil its mission by animating its members who wish to give themselves to the Lord through the Institute, and to live for his glory. Such a vision implies new demands. It forces every Institute to take up the serious study of its origins, to formulate its own *raison d'être*, to articulate its spirit and renew its structures. All this requires a historical and canonical work which cannot be confided to outside experts. Institutes, including those of women, will therefore need their own historians and canonists.⁴⁴

In the light of this new law, it will be necessary to revise certain over-hasty decisions taken by renewal chapters. Regrettably, many were convened before the end of the council, others at the shortest possible notice. The right sort of preparation was lacking. Doubtless it would have been more prudent to impose an obligatory period of preparation, reflection and prayer for these chapters. Where it is possible, it will be necessary for Institutes who are solicitous about their future to do the work over again.⁴⁵

One criticism of the report might be that the first Part of the new law for Institutes of consecrated life is far too general in character. Would it not have been more simple to have made three sections of it: one for religious, one for societies of common life, and the third for secular Institutes? The objection is as plausible as it is dangerous. The result would have been a tinkering with past structures. All religious would have been dealt with at the one time, under one common denominator, with the same 'levelling' effects. For apostolic societies, one would have had recourse to the law for religious, both for the sake of brevity and to avoid repetition, as in the present code; and secular Institutes would have followed suit. Yet religious alone need to be divided into monks and apostles, canons regular and mendicants, clerics and lay people, as in the first draft of the second and special Part.

The second principle enunciated by Fr Said will assuredly give greater freedom to the vast majority of Institutes, particularly of women. This is what he says:

To the guiding principles set out above – the four leading ones of which we spoke originally – we can add a further consideration, constantly in the minds of the consultors: to avoid all discrimination, in drawing up prescriptions, between Institutes of men and of women. Many congregations of women have rightly complained about the

⁴⁴ See note 29, *supra*, p 94.

⁴⁵ We hope to return to this topic in a future article devoted to an assessment of renewal chapters.

prescriptions of the existing code in this respect. There, it seems to be taken for granted that members of womens' congregations need a guardian in all the various aspects of their life and work. When the code was published, this attitude might possibly have had something to be said for it; but nowadays the formulation of such discriminatory norms is unthinkable.⁴⁶

One cannot but applaud this judgment; but its consequences must be understood. Women religious now need specialists: in theology, canon law and spirituality. Otherwise, almost as soon as the new legislation is promulgated, we shall be exposed to the risk of a new imposition, by decree, of the old tutelage which certain male religious do not seem to be able to cast aside, wherever there is a question of womens' congregations.

Evidently this principle implies, for example, self-government for cloistered nuns. It demands a radical change of certain attitudes which are now engrained in the christian mentality. Will we ever succeed in changing things here? What must be done is to change the personnel and organizations responsible for the direction of consecrated life, at the same time as we change the structures. This will no doubt be difficult, but it is one of the exigencies of renewal.

An obvious objection here is that Institutes of women have not all reached the same level of growth: one certainly valid distinction is between the older christian countries and the new churches. What is needed, then, is the constant effort to foster everywhere education for freedom, if the progress desired by Vatican II is to be achieved. It cannot come about by imposing new systems of tutelage, even temporary and provisory ones; for there is always the risk that they will become permanent.

Subsidiarity is already established as a working principle in the general legislation. All that we have said so far is proof of this. However, if the Law applies the principle, then it must support its application in the special and particular Part. The whole of the envisaged legislation is to achieve this end. So Fr Said explains:

Apart from the prescriptions relating to the very nature of the state of perfection by the profession of the evangelical counsels, which obviously will be the same for all Institutes, and certain fundamental disciplinary prescriptions, the canons so far drafted leave to the Institutes ample freedom for adaptation in matters of discipline, by taking into account the various internal demands and necessities, and also those imposed by circumstances of time and place.⁴⁷

The principle has often been badly understood, and today it is badly applied. So many renewal chapters are the best proof of this. They have interpreted the principle as though it were simply a principle of decentraliza-

⁴⁶ *Communications* 2, pp 176-7, 7.

⁴⁷ *Ibid.*, 2, p 177, 8.

tion. When it is properly applied, the principle of subsidiarity allows to the lower echelons all the initiatives and competencies for which they are capable of taking the responsibility. The same principle obliges the higher echelons to respect this right; it also imposes on them the duty of helping, of acting subsidiarily, whenever the lower ranks are failing to act with prudence or efficiency, or when they do not yet have the means to do so.

In law, Institutes of perfection can observe this principle as it is applied by the Church. The hierarchical authority, in what concerns consecrated life, has no other than a *subsidiary* role (once, of course, we have come to a clear understanding concerning the essentials of this life as recognized by this authority): that is, the protection of the Institute and its members. Hierarchy is not a founder of Institutes; it does not impart any charism to them. It simply recognizes and approves the authenticity of the divine gifts.

The hierarchy will apply this principle of subsidiarity whenever its intervention is necessary, urgent and vital for the good of the Institutes. It is the whole Church which is called upon to intervene; often the hierarchy can do nothing without the help and the solidarity of Institutes and of all christians.

When the principle of subsidiarity is badly applied, with an incessant urge towards decentralization, it can force an Institute out of shape by debilitating its higher authority and making it ever more irresponsible: which is what happens when one thinks in terms of 'animators' rather than directors, of 'communicators' rather than governors. Certainly Institutes of the consecrated life cannot flourish without a strong central responsibility, which safeguards the very autonomy of the members, mobility of action, unity and essential spirit. We believe that it will be necessary to bring all this into the full light of day in the special Part: otherwise there will be a risk of destroying rather than of building up, of weakening structures instead of bringing them to the fulness of maturity.

A third principle is that harmony should reign between the common and the particular law. The report is brief enough on this point:

In the revised law, concord must be achieved between the common and the particular law. Common law should impose only what is strictly necessary, so as to leave Institutes with the proper freedom to set up the sort of structures which are totally adapted to their own way of living. On the other hand, particular law ought not to transgress the limits set by the common law: rather it ought to respect the general guide-lines and apply them with fidelity.⁴⁸

This principle will only be seen in its true colours when the study group begins to work on the law dealing with the different kinds of consecrated life. The general legislation so far drawn up will be put to the test at that point and will necessarily undergo some modifications. Changes will have to be made in terminology and texts will have to show greater flexibility,

⁴⁸ *Ibid.*, 2, p 178, 8.

if one is to respect Institutes in the concrete: their lives, their mission and their growth.

Two questions arise here: the first concerns the prevalence of particular law over common law; the second, the avoidance and correction of abuses in order that conciliar renewal be both real and possible. Certainly the particular law ought to prevail; and a first reading of the report might give rise to some apprehension on this point. However, an attentive consideration of the text will show that the common law sets out the essential elements for every Institute of consecrated life: the profession of the counsels in the context of perfect charity, through the life and practice of the counsels in the institutional situation (which is not that of the secular priest or the simple faithful of Christ), fidelity to the fundamental charism and structures of the Institute, dependence on the hierarchy, a certain participation in hierarchical power, the norms for admission and for membership of the Institute, for formation and separation from the Institute, and for the administration of goods. All these are general norms which, as the Church knows from her experience, can and ought to be imposed upon the different Institutes without harming them, and in such a manner that the way is left open for new charisms of the consecrated life. Perhaps one ought to make provision for derogation from this common law, whenever a new and solid foundation comes up for approbation: otherwise it would be hardly possible to avoid seriously disturbing the establishment of a new foundation during its first years, and the initial experiments of its mission. This right of initiative ought to be granted to founders during their lifetime; this was the practice of Pius XII.⁴⁹ At the same time, it is also necessary to protect the rights of the members and not to permit the founder, after approbation has been given to the Institute, to do anything which would seriously damage the consecration of life by the evangelical counsels or to diminish the importance of the first commitment of the foundation group.

A more delicate matter is the avoidance and correction of abuses in conciliar renewal. It is here that the harmony between the common and particular law will be the most difficult to achieve. The problem is the variety of kinds of Institute. These need to be defined exactly in order to achieve a more perfect realization of each vocation. It would be truly an impoverishment if the demands of monastic law were reduced to a point at which the abuses of josephinism⁵⁰ were permitted or protected, or a form of apostolate contrary to the demands of the contemplative life. When we turn to the aspirations of the Institutes dedicated to the apostolate, what is most striking is how their most fervent members are anxious to recover the authentic charism of their founders, particularly on points which concern

⁴⁹ Cf A.A.S. 50, (1958) p 38.

⁵⁰ Josephinism: the principles inspiring the ecclesiastical reforms of Joseph II, holy roman emperor, 1765-90. Among other things, they issued in the transference of monasteries from papal to episcopal jurisdiction.

poverty and assistance to the poor, and work for handicapped and abandoned children. It so often happens that these Institutes are little by little directed to other categories of sick people and children. It is the same with Institutes of priests. There is a desire to recover a more pastoral apostolate and leave aside more profane works; these, after all, are secondary and could be done by the laity or by civil society. In all these cases the sounder view prevails only with difficulty; normally, it is not the view of the majority of the chapter.⁵¹ This is the commonest problem which the special norms for the different kinds of Institutes will pose; even as it was the greatest difficulty in many chapters of renewal.

The final principle treats of the dignity and the rights of the individual person. This has its special application in all that concerns admission, formation and the dismissal or leaving of members. It also has special importance with regard to the participation of all members in the life and government of the Institute, spiritual and material alike. Its regular application to what concerns the sacramental life, human relationships and contacts, family relationships, apostolic action and the responsibilities and initiatives which these involve, is equally delicate. From the general tenour of the new law of Institutes of consecrated life it is clear that, in this matter particularly, it will be for the Institutes themselves to make these applications conscientiously. Fundamental rights are inalienable. The fundamental law has already enunciated several of these.⁵² Consecrated life can, however, involve a renunciation of the exercise of these rights and a limitation on their use; but this limitation cannot be extended to the extinction of fundamental rights which constitute the dignity of the human person. On this subject the report makes this general observation:

With regard to the choice and the preparation of candidates, great emphasis has been laid on the need for physical and psychological maturity, on the formation of the master of novices who ought to be endowed with all the qualities required for his difficult task . . . Explicit mention has also been made of the necessity of a divine vocation which both the candidate and the competent authority must examine before admission.⁵³

Here we are glad to indicate that the personality of the chairman is a great help. His is a strong anglo-saxon mentality, which testifies to a constant care for the liberty and dignity of the human person; this comes out in the draft of the canons which he proposes for discussion to the study group.

⁵¹ Cf the study of Prof. Les Moulin, '*Sanior et maior pars*: Etude sur l'évolution des techniques electorales dans les ordres religieux du vième au xiiième siècle', in *Revue historique de droit français et étranger* (1958), pp 368-529.

⁵² See our studies, 'De statuto iuridico Christi Fidelium iuxta vota Synodi Episcoporum in novo Codice iuris condendo', in *Periodica*, 57 (1968), pp 550-581; and 'De iuribus Fundamentalibus in statuto iuridico Christi Fidelium assumendis', *ibid.*, 58 (1969), pp 29-58.

⁵³ *Communicationes* 2, p 180, 14.

THE NEW SCHEME OF CANON LAW FOR INSTITUTES
OF THE CONSECRATED LIFE

We wish to set out now the scheme which has guided the work of the study group.⁵⁴ This represents simply the general structures of the law. But every legal structure is a manifestation of the spirit – a point which is worth remembering.

INSTITUTES OF PERFECTION

Preliminary Canons

General Part: Prescriptions common to all Institutes.

- Title I The erection, the amalgamation, the suppression of Institutes, provinces and houses.
- Title II The dependence of Institutes with regard to ecclesiastical authority.
- Title III The government of Institutes.
- Title IV The temporal goods of Institutes and their administration.
- Title V Admission into Institutes.
 - art. 1 Qualities required in candidates.
 - art. 2 The formation of candidates.
 - art. 3 Their cooptation into the Institute.
 - art. 4 The formation of those who have been co-opted.
- Title VI The obligations of Institutes and of their members.
- Title VII Separation from the Institutes.
 - art. 1 Transfer to another Institute.
 - art. 2 Leaving the Institute.
 - art. 3 Returning to the Institute.
 - art. 4 The juridical situation of those who have left the Institute.

Special Part: Prescriptions peculiar to certain Institutes.

Preliminary Canons

First section: Monastic Institutes

- Title 1 Monks.
- Title 2 Nuns (*moniales*).
- Title 3 Cloister for nuns.

Second section: Religious Institutes depicated to apostolic works.

- Title 1 Religious clerical Institutes.
- Title 2 Religious lay Institutes.

Section three: The Societies of common life.

Section four: Secular Institutes.

Section five: Exempt Institutes.

We notice first of all that the general Part, of which the study group has already produced a first draft, is the more carefully elaborated. Even though it follows the code in its general outline, it contains some new titles,⁵⁵ as well as having abolished others;⁵⁶ and it is generally restrained in character.

The preliminary canons of this part are to be revised completely.⁵⁷ Several of them were drafted before the general scheme had been produced; they will take their place in the special part.⁵⁸ In view of the articles which follow, it will be necessary to consider the following: the consecrated life,⁵⁹ the consecrated life as established by the evangelical counsels,⁶⁰ the divine gift which is at the origin of these institutions,⁶¹ the nature of this vocation,⁶² the various kinds of Institutes and vocations,⁶³ canonical distinctions between order and congregation; the Society of common life and the Institute or Association of consecrated secular life.⁶⁴

Title I. *The erection, amalgamation and suppression of provinces and houses.*

This particular title is much the same as title IX of book II of canon law; however, many innovations have been proposed both for the erection of the Institute and for its territorial division. These changes have been made in view of new institutions which have recently appeared in the Church, such as episcopal conferences;⁶⁵ they also have in view the principle of subsidiarity and a sound decentralization. The rights and the needs of the Ordinary of the place and of the local church are equally recognized, both in terms of erection as well as of suppression of houses or communities.

⁵⁴ *Ibid.*, 2, pp 175-6.

⁵⁵ Title V, article 4; and Title VI, which concerns the obligations of the Institute.

⁵⁶ Those concerning confessors and chaplains, the scheme of studies in clerical orders and congregations, and privileges. The articles dealing with dismissal have been considerably shortened.

⁵⁷ The question of terminology is also at issue: Should there be definitions? If so, is it not better to leave these to the law specialists? Should there be a glossary (*verborum significatio*) in the new code?

⁵⁸ The prescriptions of the present canon 488, §§ 1-8 (defining the various types of Institutes etc.) should be inserted in the special Part.

⁵⁹ That is, the life consecrated by the evangelical counsels. See our study, *De vita per consilia evangelica consecrata* (Rome, 1969), pp 285-7, for an attempt at codification.

⁶⁰ Cf *Perfectae Caritatis*, 1.

⁶¹ Cf *Lumen Gentium*, 43, 45, 47; *Perfectae Caritatis* 1, 5, 25.

⁶² Cf *Lumen Gentium*, 44.

⁶³ *Perfectae Caritatis*, 7, 8, 11. The general typology gives the ideal shape of each kind of vocation to the consecrated life. There is no typology in sections 9 and 10 of this decree, which are simply concerned to resolve disputed questions. Section 9 was a last-minute insertion into the text of the decree, so that we have a double mention of the monastic state entirely given over to contemplation - in section 7 and again in section 9.

⁶⁴ The distinction is made in *Perfectae Caritatis*, 1. The utility of these distinctions has been questioned; and there was a request at the Council for the suppression of the distinction between 'Order' and 'Congregation'. One could certainly bring under one title Orders, Congregations and the Societies of common life dedicated to works of the apostolate.

⁶⁵ *Communicationes* 2, p 178, 10.

Finally, a prescription has been introduced concerning amalgamation of Institutes, in order to help towards such unification where this is necessary, and to the degree to which it is necessary.⁶⁶

Title II. *The dependence of Institutes vis-à-vis Ecclesiastical Authority.*

This is a difficult and delicate problem. The report has this to say:

The established principle is that every Institute of perfection, independently of its actual juridical condition, has been established in the Church in view of the universal good of the Church herself; and consequently is subject in a particular way to the supreme authority of the Church.⁶⁷

The question of the submission of the members of the Institute to the supreme authority is equally difficult. In speaking of religious, the code says that they are obliged to obey the sovereign Pontiff in virtue of their vow. This obedience would be the matter of the vow and of every similar commitment.⁶⁸ A vow of obedience to the sovereign Pontiff as the supreme authority, it would extend itself to the episcopal body in union with him, if the whole college were to give an order in virtue of the vow to all members of Institutes of perfection.⁶⁹ It is difficult to envisage this as a reality; equally, one can hardly envisage the episcopal college imposing a precept on individual members of an Institute of perfection.⁷⁰ With regard to the relationship of Institutes and their members with the Ordinary of the place, the study group was unwilling to lean on the distinction between exempt and non-exempt Institutes. The report explains it as follows:

As the second Vatican Council declared, exemption is a free act of the supreme Pastor of the Church. Having in mind the common good and the particular usefulness of an individual Institute, he exempts from the jurisdiction of the Ordinaries one, several or all Institutes of perfection, or members of these Institutes, and submits them

⁶⁶ *Ibid.* Notice the insertion in the first title of the term *fusion* of Institutes. Cf also *ibid.*, p 175.

⁶⁷ *Ibid.*, 2, p 179.

⁶⁸ The 'supreme authority' means the Pope and the ecumenical Council. The term is too vague to define a commitment. Commitment by vow or similar bond presupposes a *personal* relationship. This is why we consider it useless to include in the term 'supreme authority' the appropriate sacred congregation, which is simply an instrument of administration and of itself impersonal. It is sufficient to know the concrete difficulties involved in obedience to an 'anonymous' superior to avoid commitment to such a situation.

⁶⁹ If the Episcopal College is to be a truly personal authority it cannot act, in our opinion, except in union with him; which means *by* him, as head of the College.

⁷⁰ The term 'superior' cannot include an episcopal conference, which so far has never exercised any collegial jurisdiction defined by common law. This is a difficult question. It would seem that a conference should possess such jurisdiction; but to bind oneself to obey it by vow would be highly imprudent.

either to himself alone or to another superior. Exemption then depends on a free act of the sovereign Pontiff who can grant it or withhold it.⁷¹

As such, this description of exemption arises from a particular theological reflection on the subject of pontifical jurisdiction and its exercise. History must provide all the necessary information in order to situate it in factual reality. Further, it is necessary to observe that, if one speaks of 'privilege' in the sense of special law,⁷² the word has taken on an interpretation of class privilege which does not correspond to the spiritual reality protected and expressed by exemption. Exemption in our day, now reduced and strictly limited in the apostolic life of Institutes, also finds itself enhanced by the greater autonomy which the internal life of Institutes demands, and by associated rights, such as the right of the human person, recognized by the fundamental law⁷³ and to which the report already alludes.⁷⁴ On the subject of autonomy proper to Institutes, the report makes the following statement:

The study group considered it more useful to insist on the necessity of assuring for every Institute of perfection the internal autonomy to which it has the right. An Institute is a moral person or ecclesial organization legitimately constituted in virtue of its erection by the competent ecclesiastical authority. From this point of view, every Institute of perfection has the right to lead its own life according to its own statutes and without undue external interference, in order to exercise its own proper activity and look to its own growth. This is not to say that the Institute and its members are not subject to the supreme or central authority of the Church, and also to the Ordinary of the place according to the prescriptions of law.⁷⁵

It was necessary to consider the relationship of all Institutes with the Ordinaries, since the council had reinforced the latter's position and augmented their powers.⁷⁶ The same tendency is noticeable in extra-conciliar documents.⁷⁷ There were people at work before the council trying to reduce

⁷¹ *Communicationes*, 2, p 179.

⁷² The word 'privilege' has had a bad psychological effect on bishops as well as on religious. If it is to be 'particular', the law should contain some exceptional prescriptions. The more the common law is swamped in detail, the more the particular must escape uniformity and include the necessary derogations.

⁷³ The latest draft of the 'fundamental law' (canon 16) simply reproduces norms established by the council. Cf *Apostolicam Actuositatem*, 19 and *Presbyterorum Ordinis*, 8.

⁷⁴ Cf *supra*, p 101.

⁷⁵ *Communicationes* 2, p 179.

⁷⁶ The powers of the Ordinary have been more clearly defined especially with reference to the apostolate. The bishop is responsible for the entire apostolate in his diocese.

⁷⁷ In certain documents the relationship between religious Institutes and the Ordinary of the place has been considerably strengthened. Too much so in some cases. Some of these norms already need revision and a greater measure of flexibility: e.g., concerning dispensation from vows (lay superiors when they give the decree of secularization invoke the dispensation from commitment *ipso iure*), and the reduction of priests to the lay state with a dispensation from celibacy. (These matters, reserved to the Ordinary of the place, are now granted to the superiors of religious priests.)

'the rights of religious' to a minimum. This is very marked in the decree *Christus Dominus*,⁷⁸ and in the prescriptions of the first part of the *motu proprio Ecclesiae Sanctae*.⁷⁹ The report has this to say on the matter:

For this reason the rights of the Ordinary of the place with regard to Institutes of perfection have been set out in a very precise manner, particularly with regard to Institutes of diocesan right. The law in the code showed various lacunae of no little importance in this matter. Institutes of diocesan right, which are still in the years of their infancy or their adolescence, had for this reason been confided to the particular care and vigilance of the Ordinary of the place, in order that he might aid them and stimulate their spiritual and material progress, their growth and their expansion across the world.⁸⁰

It is, however, true that even with regard to these Institutes it is most necessary to be on one's guard to maintain and to respect the right to autonomy in the matter of free association.

Title III. *The government of Institutes*

This part of the proposed legislation presents us with a completely new look through the influence of the council. Though there is no question of going against the nature and tradition of the older Institutes, the accent is rather on the principles of subsidiarity and participation of members in the new directions and orientations to be given to the Institute. Hence the figure of the superior (or the person in charge) takes on new dimensions. The report sketches out these changes as follows:

In setting out the norms it is necessary to get across the idea that superiors accept and fulfil the office which is theirs in the spirit of service towards the community, and that they govern by stimulating and promoting the common action amongst their religious rather than by imposing commands.⁸¹

When one reads this passage it is clear once again how difficult it is to free oneself of the 'religious' vision of the code in order to get the proper perspective of a law common to all Institutes of perfection. With regard to authority itself, the good of all will demand that 'Superiors have sufficient authority to govern; and they ought to exercise this in a wise and prudent manner for the common and individual good'.⁸²

⁷⁸ The distinction between 'diocesan clergy' and 'clergy of the diocese' is typical of this tendency, so much to be deprecated in the modern context.

⁷⁹ These norms of *Ecclesiae Sanctae* are dictated by a defensive mentality hostile to that collaboration between the priesthood and the apostolic consecrated life which the 'sacramental brotherhood' takes for granted. It is to be hoped that the revision of the code, at least, will give some sign of a more flexible spirit — one more open to particular vocations.

⁸⁰ *Communications* 2, p 179.

⁸¹ *Ibid.*, pp 179-80.

⁸² *Ibid.*, p 180.

The principle of necessary and competent authority needs to be stated, particularly today when authority is diminished vis-à-vis the principle of subsidiarity; and when the exercise of authority, because of a certain inhibition on the part of superiors, has often become feeble and uncertain.

In the government of Institutes of perfection, it is also necessary to inculcate and take every step to assure freedom of conscience. So the report says that 'the consultors have been at pains to introduce for the sacrament of penance a much more simple discipline than that established in the code, particularly in what concerns nuns and religious sisters'.⁸³

With regard to manifestation of conscience, it must be said that the over-rigorous interpretation of canon 530 had largely nullified it, with the result that religious superiors became simply administrators of an external order. At the same time, the secular Institutes, owing to their greater flexibility, have maintained more human and fraternal contacts amongst their members and with those in charge.

Title IV. *The administration of temporal goods.*

Here, we are dependent on the general law of the Church. As the report says, it was necessary to see what the study group on the law of patrimony would propose, in order to know whether the section treating of the temporal goods of Institutes of perfection ought to be included in the part of the code reserved for this matter. Eventually, the study group for the law of patrimony decided to leave to the group on Institutes of perfection the task of making a draft proposal for Institutes of consecrated life. This work is under way. It has been discussed by the study groups involved and approved by the members. Like other texts, the proposal here manifests a sobriety of expression and a simplicity of prescription which respects the specific qualities of Institutes. At the same time, this legislation is redolent of a more evangelical spirit, according to the norms of the council.

Title V. *Admission into Institutes.*

Four sub-titles give the right structure to this important topic for the life and future of Institutes of consecrated life. The terminology is not new. It was chosen to avoid the sort of impression of religious law which is given in the code. The word candidate is used instead of novice; the term cooptation in place of profession; sacred bonds in place of vows; the use of the word novitiate gradually becomes less common than the word probation, since the latter term is more suitable for religious 'novitiates' which are becoming less 'conventual' since the publication of *Renovationis Causam*.⁸⁴ Of course, any Institute can retain its terminology in these matters, though they are

⁸³ *Ibid.*, p 180.

⁸⁴ *Renovationis Causam* has radically changed the shape of the novitiate, hitherto restricted to a place (the 'house' of the novitiate); Cf Supplement to the way, 7 (June, 1969) p 92.

being pressed to adapt their periods of probation to the type of life and action which is proper to them.⁸⁵

The report gives us a summary of the work done on this matter:

Title V contains prescriptions which are very important for the good of every Institute of perfection. The question at issue is the admission of candidates, their formation and their incorporation into the Institute. In this section it was necessary to give norms applicable to every Institute. One can easily understand, then, that the study group have only formulated general prescriptions and have left numerous points to be determined by particular law. The consultors have had at hand the instruction *Renovationis Causam* promulgated on 6 January 1969, and have introduced into the canons of the present title the numerous faculties granted by this instruction. Emphasis has been laid on the necessary care concerning the choice and the preparation of candidates, their physical and psychological maturity, and the formation of the master of novices, who ought to be endowed with all the qualities required for his difficult task. Legislation concerning incorporation or cooptation into the Institute has been set out in a way which will respond to the conditions and necessities of today. Account has likewise been taken of the concessions and experiments permitted by legitimate authority. In this common law there is no longer a question of a postulanship. Explicit mention has been made of the necessity of a divine vocation, which the candidates and the superiors ought to examine seriously before incorporation. The conditions for validity of the novitiate and for incorporation are reduced in number. Those which concern laicization have been abrogated as useless or nearly useless. The effects of incorporation, theological as well as juridical, are more fully expressed, and the obligation is imposed on members of Institutes of perfection, after their incorporation, to complete and perfect their own formation before leading more fully the life proper to the Institute and living out its mission.⁸⁶

Title VI. *Obligations of Institutes and their Members.*

Title VII. *Separation from the Institute.*

These two titles have not yet been finally approved by the consultors of the study group. It is expected that they will appear shortly. Since they are intended for all Institutes, it is unlikely that there will be anything exuberant about them. Title VII has been pruned even more than the others: in order

⁸⁵ The prescriptions of *Renovationis Causam* are directed primarily to an apostolic type of formation. They do not concern nuns (*moniales*) and are not applicable to monastic life.

⁸⁶ *Communicationes* 2, p 180.

to suppress what related to cloister, and to avoid all discrimination between Institutes, and between men and women, according to the guiding principle governing the work.

The commission is now ready to begin work on the special Part. It must revise the preliminary canons which were the matter of the first sessions. Many of these will have their natural place in the second Part: hermits, cenobites, the monastic congregation, the clerical Institute, the lay Institute, the religious state, and secular consecrated life. All that should be said on these various titles will be inserted into the second Part.

Such, then, is the present state of the commission's work. If the first Part is substantially concluded, one can expect that various corrections will be made during the course of the discussions on the second Part. The text will receive its definite form at the end of this revision, and of the discussion of all the parts of the law for Institutes of perfection.⁸⁷

What impressions are we left with as we consider the work so far accomplished? It is certainly inspired by a new vision. The part which is common to all Institutes profits by their diversity in order to establish more flexible general norms, which are more considerate of individual rights, simpler and less numerous. Certainly, to read the proposal as it is so far mapped out is a breath of fresh air. There is nothing here of the compilation of ancient law. Here we have something entirely new, which is a response to the needs of today and is supportive of that renewal designed by the council.

Two questions present themselves: will the proposal as a whole be accepted, and does it appear to be a compromise? With regard to the first question, it would seem that it will receive acceptance, as long as those who have to offer a judgment on it are given time to make their own the same conciliar perspective as those responsible for the draft, and can be brought to accept a new kind of legislation. This will not be easy. Many sessions were necessary for the consultors to free themselves of the past, and the new terminology is not yet fully assimilated. The accent is still too heavily on the law of *religious*, whereas a serious effort is being made to set out a more general scheme in a perspective which admits a diversity of vocations, charisms and institutions. After the code of 1917, an immense effort is obviously necessary; a conversion even, if superiors, especially amongst religious, are to be made aware of these new perspectives and to enlighten the episcopate on the importance of this work.

One may say that these texts are a compromise, in comparison with schemes prepared by the conferences of major superiors of religious Institutes. Too often the latter have tended to put into the general law of the Church particularities which ultimately are just an encumbrance, or precepts which

⁸⁷ It will be necessary to revise the first Part in the light of the second. This will take greater cognizance of the diversity of Institutes and will demand an even greater flexibility in the general norms of the first Part.

they have not the strength to put into practice. Common law ought not to be a make-weight for personal deficiencies. If this were to happen, the law would destroy itself by the weight of its own prescriptions, by the detail of its laws. To proceed in this manner would carry the risk of having a worse law than before. Texts which show an over-anxious pre-occupation with the problems of religious life, when presented to the bishops, will bring a whole host of amendments to break the flow and the line of the draft presented for their approbation. This is a real danger.

Another danger is that from pressure groups. They do exist. How can they be neutralized? Can they put themselves on a par with the texts they wish to change?

What about the attitudes and proposals of the different categories of Institutes of perfection? They are certainly of use. The monks have undoubtedly made their voices felt – sometimes harshly and discordantly. The cloistered nuns will present their wishes as the congress of benedictine abbots have done,⁸⁸ and the chapter of reformed cistercians.⁸⁹ (*The Propositum monasticum* is the work of a single author.⁹⁰) Canons regular would consider themselves as different from monks.⁹¹ According to the norms of *Perfectae Caritatis*, they are not a monastic order, but an apostolic Institute, consisting of a group of canonical congregations which have been amalgamated.⁹² Their specific purpose is divine worship. According to this title they have the same ecclesial function as the cathedral and college chapters of a bygone age.⁹³ This is their chief work, and they often add to it pastoral work in the parish; it is this that sometimes hinders their celebration of the liturgy, which is meant to be the essence of their life and witness. Clerks regular have never expressed their own particular wishes. They are easily inserted amongst the Institutes of apostolic life,⁹⁴ of which

⁸⁸ These studies will be useful for the preparation of a text which needs to be very concise, without levelling everything down to a uniformity.

⁸⁹ The chapter of reformed cistercians are satisfied with the statement of their vocation in *Perfectae Caritatis*, 7.

⁹⁰ This text, the work of Fr Basil Pennington O.C.C.O., is too detailed and introduces too many prescriptions proper to the special statutes of monastic congregations.

⁹¹ The canons regular have marked out their own characteristics very clearly: canonical office, collegial chapter, apostolate of the solemn liturgy. This last point seems essential; it should be their first rule of life, and should indicate to them the various forms of their apostolate.

⁹² The canonical congregation would need to be defined to prevent its being assimilated to a monastic congregation.

⁹³ In our view it would be less appropriate to apply to them the prescriptions of secular chapters, if these continue to obtain in the general law of the Church.

⁹⁴ The fundamental principle of these Institutes is defined in *Perfectae Caritatis*, 8. It is to integrate the interior life and apostolic action in an Institute which no longer distinguishes between the religious life and the apostolate. For these Institutes, the apostolate is the integrating factor of life, not a supplementary activity or an action external to the life of the Institute.

they were the predecessors. Many of them are tending to die out for lack of vocations.⁹⁵

And what of the mendicant orders? They, too, are Institutes dedicated to apostolic action. The search for poverty and its regime is no longer their distinguishing characteristic; now it is rather the apostolate as the fruit of their contemplation which identifies them.⁹⁶ In seeking for a new equilibrium, these Institutes have a tendency to play down the importance of the divine office in order the more freely to organize their apostolic life, their studies and the other pastoral tasks which they have taken on in more recent years, even in parishes.⁹⁷

Amongst the Institutes dedicated to the works of the apostolate are to be found the societies 'of the common life', some missionary,⁹⁸ others strongly pastoral;⁹⁹ amongst the latter are the very numerous Sisters of Charity, the most original and the best known of these societies amongst women.¹⁰⁰ Missionary societies have recently underlined their non-religious character. Some of them do not wish to be considered any longer as Institutes of perfection: that is, they no longer wish to be considered responsible for the spiritual progress of their members.¹⁰¹ Among all the clerical societies, one is aware of a desire to see their members incardinated in their dioceses of origin or in a diocese of their native country which would be willing to take

⁹⁵ These are the Institutes which have retained, for the most part, monastic observances.

⁹⁶ The principle *contemplata aliis tradere* (to hand on to others the fruits of contemplation) is typically dominican.

⁹⁷ The mendicant orders differ very much amongst themselves; and the renewal of the franciscans has shown up these differences. The post-conciliar period is proving crucial for these Institutes. Furthermore, the forms of apostolate towards which they are tending will necessarily militate against monastic observance in communities at once less numerous and more active. There is also the danger that their houses of formation will become the guardians of a tradition which no longer relates to their modern life-style.

⁹⁸ These societies have experienced many vicissitudes, and they remain, in spite of everything, very different from each other. They have, however, formed a union for common study and action. Dependent on the Sacred Congregation for the evangelization of peoples, they lay great stress on this relationship which for them is exclusive and unique: they wish to free themselves from all dependence on the Sacred Congregation of religious.

⁹⁹ The non-missionary societies centre around pastoral work, the formation of diocesan clergy, action adapted to dechristianized situations. Amongst them are recent foundations such as that of Père Loew; several secular Institutes appear destined to find the same level, as secular societies of the apostolate. The same will happen to Institutes of common life which have specific apostolates.

¹⁰⁰ In its renewal Chapter, the Company of the Sisters of Charity reaffirmed its non-religious character in total fidelity to St Vincent de Paul.

¹⁰¹ A Society of this type has changed the nature of its commitment by consecrating itself not directly to God, but to the mission as the work of Christ. This distinction is bound to have its effect on the life of the Society. Another has refused all responsibility for the personal sanctification of its members – limiting itself to missionary activity. These reactions are understandable in view of the strong opposition of missionary Societies to the idea of 'state of perfection', and to the doctrine upheld by the Apostolic Constitution *Provida Mater Ecclesia* as the basis of its canonical structures.

them in charge.¹⁰² Certain of them dream of a double incardination: in their native country and in missionary territory. All these tendencies seriously disturb the unity of their Institute and their apostolic cohesion; they also put in jeopardy their spirit and their fraternal union. For some of them, their chapters of renewal have with difficulty overcome this danger. In the legislation on Institutes of perfection, only those missionary societies can be considered who wish to make explicit profession of the evangelical counsels as a consecration to God and to man; not those who by-pass the three counsels or consider that their commitment is first and foremost a contract of missionary work which can only be temporary.

The 'ecclesiastical societies' wish to remain Institutes of perfection. Their strong points are their service of the local church and their collaboration with the clergy of those dioceses where many of them have had charge of the seminaries for a number of years. These societies are not 'religious'. Title XVII of the code of canon law (The Societies of Men or Women living in common without Vows), was not inspired by the nature and spirit of these societies, but simply by their external resemblance to religious Institutes – the fact that they live a community life, have a common table and share a more or less strict community of goods. This common life, by force of circumstances, has been 'conventualized'; and the constant reference in their regard to the law for religious has led to their being associated more and more with religious. Today they are trying to extricate themselves from this position, by resisting everything which might lead to their inclusion amongst religious. They were happy to see that the draft of the new law for Institutes of perfection reserved to them a special title, clearly distinct from Institutes of the monastic life, and from those devoted to the works of the apostolate. If they are not religious, then they must needs be 'secular', and define their own proper secularity. The matter is an important one.

The secular Institutes are always seeking to become more secular; and yet they admit a *just* pluralism, one which corresponds to the directives of *Primo feliciter*. They are not the only Institutes to have a secular vocation. *Institutes* and *vocation* must be distinguished here. A secular vocation, a mitigated one to be sure, can belong to societies of common life (today called apostolic societies), like the *Mission ouvrière SS Pierre et Paul*, founded by Fr Loew.¹⁰³ The secular Institutes which wish to maintain a certain form, even a flexible one, of common life, or who organize corporate works,

¹⁰² The french episcopal conference has recently granted this wish of the *Missions-étrangères de Paris*. Some societies are in process of emphasizing their national character: thereby creating a problem, especially where they have already accepted members of other nationalities, particularly in missionary territory.

¹⁰³ At the time of the approbation of the *Mission SS, Pierre et Paul* one could not identify this Association by the characteristics proper to the secular Institutes. The group was then designated 'an apostolic society' – a very appropriate title in view of its common life activities and its particular characteristic of adaptation to the workers' milieu.

could easily find a canonical status which corresponds to their particular charism and to their role in the Church.

A different vocation still is that of the secular branches or sections which were founded for cooperation and friendship with certain religious Institutes. They have at last been attached to these Institutes.¹⁰⁴

Finally, there is the secular vocation of certain 'associations of perfection' which have opted for a status more flexible than that of the secular Institutes approved by Pius XII.¹⁰⁵ This flexibility does not necessarily correspond to a stronger secularity. Certain secular branches of religious Institutes have obtained this canonical status of association, so that now they have a double dependence on the Congregation of religious and of secular Institutes, because of their special relationship, even if this is simply spiritual, with the particular religious Institutes, and also by title of their own consecrated life.

This list of different vocations in so great a variety of institutions stresses the importance and the delicate nature of the work which the study group must undertake with regard to Institutes of perfection, when they turn their attention to the revision of the special Part of their draft.

This draft is a first step. Already useful corrections have been suggested, such as the suppression of the second title of the first section, the cloister of nuns.¹⁰⁶ This itself poses a number of questions. Contemplative nuns no longer wish to have imposed upon them the carmelite cloister. Benedictine and cistercian nuns wish to return to their old traditions and to adapt these to the mentality of today. The much-vaunted equality between men and women ought to be respected here also.¹⁰⁷ Today the nuns who follow the rule of St Benedict are obliged to a cloister which is more severe than that for benedictine monks. Perhaps it would be more desirable to effect a greater measure of retreat and solitude for the men, and fewer barriers for the women. Another suggestion may be equally valuable. Why so strong an accent on *religious* Institutes dedicated to the works of the apostolate? Would it not be possible to include under the same title all institutions of the consecrated life dedicated to the direct apostolate: orders, congregations and apostolic societies? In the decree *Perfectae Caritatis*, all these Institutes were

¹⁰⁴ These secular branches do make possible an authentic life of consecration which is also secular, as long as their dependence on the religious Institute does not put shackles on their secularity, and those in charge belong to the same category of membership.

¹⁰⁵ This was the status of the Society 'Leunis' in Canada, which opted against approval as a secular Institute, so as not to be separated from the marian sodalities which constituted its first apostolate. Other groups have chosen this status as being more flexible and adaptable to their life-style.

¹⁰⁶ The nuns want the same kind of cloister as the monks and to return to the ancient customs of the monastic order. The more remote sites of these monasteries is a great help for this. The carmelites and the nuns of the second order of franciscans or dominicans usually live in towns. This is the explanation for their stricter enclosure, which is easier to organize in a more restricted space.

¹⁰⁷ See the article of Franco di Torino in *Vita Consecrata* 7 (1970), p 10.

included under section VIII. And yet, as we see now, the non-religious character of these societies had not then been clearly expounded. It should be up to the societies themselves to say what they are.

One final point: what sort of reception has been given to the published *schema*? According to reliable information, a favourable one. Only a few articles or studies have come down clearly on one side or the other. This is reasonable, for texts need to be read before they can be evaluated. However, it would seem preferable to produce a more unified version of the text before presenting it to bishops and to major superiors. Meanwhile, one voice has made itself heard. A member of the Congregation for religious and secular Institutes, who has studied the documents of the commission, wrote recently that the report published by the commission for the code, in its review *Communicationes*, proves that it is no longer a question of a simple reorganization of the old canons but a new cast of thought, a new style and a new inspiration with regard to the consecrated life, according to the perspectives opened up by the council and by the encyclicals of John XXIII and Paul VI. What is true for the new law of Institutes of perfection will be equally true for the whole canonical order of the Church.¹⁰⁸ This author is particularly pleased with the distinction in the new law between the general and the special Parts.¹⁰⁹ But he also has certain apprehensions, which it is useful to mention. He would like to see the place of Institutes in the Church defined more exactly. This could be done, I believe, by re-editing the preliminary canons of the first Part.¹¹⁰ One would also like to see a more concrete and more serious reflection on the nature of the consecrated life, and on the meaning and importance of the counsels in the choice of this life and its realization in the Institutes.¹¹¹ Finally, we need to free ourselves from the terminology which is less and less appropriate to this state of life.¹¹² A welcome change is the modification of the canon of the 'fundamental law' on categories of persons.¹¹³ Instead of speaking of *religious*, one speaks of those

¹⁰⁸ Most *schemata* for the new code of law have adopted a new point of view, in full accord with the directives and wishes of the council.

¹⁰⁹ *Vita Consecrata*, *ibid.*

¹¹⁰ These canons need further revision. Cf *supra* p 103.

¹¹¹ Speculative theology has approached the counsels in too abstract a fashion. They are aspects of charity lived out in a concrete state of life. Their fulfilment can be religious or secular, according to the nature of the Institutes.

¹¹² The term 'religious' needs to be avoided because of its historical implications. It was often used in connection with the vow as a means of commitment, or with the three vows as the object of profession. It carries with it 'monastic' overtones which the Institutes of apostolic life must discard.

¹¹³ This canon is still influenced by outmoded classifications rather than by Vatican II. To follow the guide lines set by the council, it would need to have as the common foundation of personal rights the *Christifidelis*, Christ's faithful one, the member of the people of God. Every baptized person is a *Christifidelis*. Among them would be those called 'clerics' – who have a sacred ministry. It is not necessary to set them over against the *Christifideles*, but to see in this ministry a special, hierarchical service of the people of

who make profession to live the evangelical counsels.¹¹⁴ In general, of course, one must agree that it is necessary to find a new terminology to express a new vision in the Church, one which is actually consonant with life as it is lived. Nothing could be more dangerous than to express a new idea by an old terminology. It is surprising how old terminology, by force of time and habit, can maintain itself and also the old ideas which it expresses. The study group on Institutes of perfection has begun to change this; but it runs the risk of failing to follow it through, unless it can achieve a freedom from the historical context which monks and mendicants, canons regular and societies of common life can impose on it afresh, by demanding a too particular mention of their own life and style in the new code.

However, that may be, the endeavour expressed in the report which has appeared in *Communicationes* allows Institutes of the consecrated life to look forward to a period of renewal which is closer to their own origins, a period of liberty for organizing their own life and work. This was the purpose of Vatican II. If the law is to be totally faithful to the holy Spirit, it can only foster this movement.

Jean Beyer S.J

God. Further, it would be necessary to distinguish the life consecrated by the counsels as the deepening of baptism, and to avoid the distinction between 'religious' and 'secular', which always ends in opposition.

The Life consecrated by the evangelical counsels can be achieved in every and any state of life. It is simply a reinforcement of the baptismal gift of self; it ought never to imply separation.

¹¹⁴ The most recent text of the 'fundamental law' has done well by Institutes of the consecrated life by avoiding the term 'religious'. This is an improvement (see canon 26). In the same canon, 'the status of those who profess the evangelical counsels' replaces the phrase the 'religious state'. It would have been better to write, as in *Perfectae Caritatis*, 'the state of life consecrated by the evangelical counsels': a formula which puts the emphasis on the effect of the counsels rather than on the 'profession' of them; profession is necessarily more hidden and reserved in the secular vocation.