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A CANONICAL ANALYSIS
OF THE PERSONAL PRELATURE
OPUS DEI

by
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CHAPTER I

PRE-CONCILIAR BACKGROUND

The Social Situation in Spain

When Alfonso XIII took the crown of Spain in 1902 and swore to uphold the constitution, he found himself facing a very complex and explosive situation. The beginning of the twentieth century in Spain was characterized by national adversity, crisis and hostility. This situation also resulted in conflict and open hostility between the Church and Spanish society.

There was a "legal hostility" marked by anticlerical laws that forbade the establishing of new religious congregations.¹ There was an "intellectual hostility" with the birth of the educational philosophy movement of the Institución libre de enseñanza. This Institución can best be summed up in four points: laicization, secularization, esthetic refinement and moral puritanism. It accused the Church of intellectual poverty, of halting progress, and of a rigid monopoly in the sphere of education.²

¹J.Vasquez, F. Medina and L. Mendez, La Iglesia Española Contemporánea (Madrid: Editora Nacional, 1973), p. 51.

²Ibid., pp. 52-53. The Institución libre de enseñanza was markedly anti-religious in its ideology and actions and particularly hostile to Catholic university leaders.

This atmosphere of hostility against the Church was compounded by the Church's slow reaction to such a challenge. The Church did see a need to take a stand against these threats to its existence, but what the Church failed to understand was the urgency of confronting this situation.³

There were also some positive elements in the Church of Spain during the early twentieth century. There was a recovery of popular piety through the Church's liturgy. A positive relationship existed with the Spanish middle class made possible by the work of the religious congregations. Of greatest importance, a popular social action developed on the part of the Church within Spanish society.⁴

Josemaría Escrivá de Balaguer

It was in this atmosphere of political, social and religious tension that Josemaría Escrivá de Balaguer, founder of Opus Dei, was born on January 9, 1902 in the town of Barbastro in the Aragonese Pyrenees. Some of the facts surrounding the founder of

³ Ibid., p. 54.

⁴ J. Vincens Vives, Aproximación a la Historia de España (Barcelona: Salvat, 1952), p.180.

Opus Dei are not known. However, much of what is known has come to us from Escrivá's own writings or from interviews he granted over the years. Other information has been communicated by those who worked with and knew Escrivá personally.

We are told that Escrivá's early years were spent in a home marked by Christian faith and education. Apart from the education and example that his parents gave him,⁵ Escrivá was educated in Catholic schools with the Sisters of Charity and the Clerics of the Pious Schools. After completing his studies at Marist College and at another college directed by the laity, he entered the Seminary of San Carlos in Saragosa in 1919. There he received a licentiate in Sacred Theology. Later, in Rome, he earned a Doctorate in Sacred Theology before ordination from the Pontifical University of the Lateran. He studied civil law in the University of Madrid and obtained his Doctorate. He was ordained on March 28, 1925.⁶

The Founding of Opus Dei

Escrivá began his pastoral work in rural parishes. Two years

⁵D. LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique," Esprit et Vie 93 (1983) 562.

⁶D. Artigues, L'Opus Dei en Espagne (Paris: Editions Ruedo Iberico, 1968), p. 9.

later, with the permission of his bishop, he began a ministry among the poor and the sick in the slums and hospitals of Madrid. It was here in Madrid that Escrivá found himself confronting a university milieu that was largely anti-religious in its ideology and actions and particularly hostile to Catholic teachers in the universities.⁷

It was during this period of his life that Escrivá began what was to become the "Sacerdotal Society of the Holy Cross and Opus Dei" with an informal group of students from the university. The date given for this founding is October 2, 1928. As Escrivá put it, this association had as its goal to teach Christians "that sanctity is not reserved for a privileged few and that all the ways of the earth can be made divine."⁸ This association, as Escrivá often states, would make it possible for ordinary persons living in the world effectively to seek the fullness of Christian

⁷J.J. Thierry, Opus Dei: A Close-up (New York: Cortland Press, 1975), p. 20.

⁸J. Escrivá de Balaguer, Conversaciones con Mons. Escrivá de Balaguer (México: Ediciones RIALP Mexicana, S.A., 1968), p. 48: "... la santidad no es cosa para privilegiados, sino que pueden ser divinos todos los caminos de la tierra..."

life and carry out their apostolate without changing their work or way of life. This way of life would be fully compatible with their lay status following a spirituality especially suited to that status.⁹

From these beginnings in 1928 through the end of the Civil War in Spain in 1939, there are few precise details on Opus Dei and its development. Escrivá himself never talked about the association's beginnings. The only information he would share about its genesis, birth and early development, as well as his own aspirations was his reply:

I never had any other aim than that of fulfilling the will of God. Please do not ask me to go into details about the beginnings of the Work, which the love of God began to make me suspect back in 1917. They are intimately connected with the history of my soul and belong to my interior life.¹⁰

⁹Ibid., p. 45: "El Opus Dei se propone promover entre personas de todas clases de la sociedad el deseo de la perfección cristiana en medio del mundo. Es decir, el Opus Dei pretende ayudar a las personas que viven en el mundo--al hombre corriente, al hombre de la calle--, a llevar una vida plenamente cristiana, sin modificar su modo normal de vida, ni su trabajo ordinario, ni sus ilusiones y afanes."

¹⁰Ibid., p. 34: "Yo no tuve y no tengo otro empeño que el de cumplir la Voluntad de Dios: permitame que no descienda a mas detalles sobre el comienzo de la Obra--que el Amor de Dios me hacía barruntar desde el año 1917--, porque están intimamente unidos con la historia de mi alma, y pertenecen a mi vida interior."

What is known about these years is that Escrivá opened a residence for students near the University of Madrid where he gathered his first followers. It became not merely a residence for young men, but the first Opus Dei house of study. It was this first group of students that he counted on to bring to Opus Dei "professionally qualified and morally irreproachable" men who would be willing to fight for Christian ideals in their every-day lives--in other words, wherever they worked.¹¹

The Spanish Civil War disrupted the growth of Opus Dei, but with the end of the conflict the work continued and developed rapidly. Moreover, the Spanish hierarchy was beginning to show sympathy for Opus Dei.¹² In 1941 the Archbishop of Madrid, Msgr. Leopoldo Eijo y Garay, erected Opus Dei as a diocesan pious association.¹³

¹¹Thierry, Opus Dei: A Close-Up, p. 21.

¹²Ibid., p. 26.

¹³Artigues, p. 30: "...en mars 1941, l'Opus Dei obtenait une maniere de reconnaissance officielle sous le forme d'une decision de l'Eveque de Madrid-Alcala, Mgr. Eijo y Garay, donnant à l'Oeuvre un statut d'association diocesaine. Ce statut n'avait rien d'original, puisqu'il placait l'Opus Dei parmi les nombreuses associations de piété existant un peu partout en Espagne."

In 1943 Opus Dei was made a pontifical society of common life without vows. This was followed in 1947 by Opus Dei's approval as the first secular institute when that form of life was developed under Pius XII with the promulgation of the apostolic constitution Provida Mater Ecclesia.¹⁴ None of these structures proved to be quite satisfactory for Opus Dei. A more detailed discussion of these stages of Opus Dei's canonical status will come later.

THE SPIRIT AND NATURE OF OPUS DEI

Spirituality of Opus Dei

To understand the spirit and nature of this first secular institute better it is important to look at the spirituality of Opus Dei and the formation and action of its members. The spirituality of Opus Dei can best be seen in the concept of the sanctification of work. Each individual member of Opus Dei is to be sanctified in the midst of the world. For the lay members of Opus Dei, the daily work is to be seen as a means of sanctification. As Escrivá said:

Our specific characteristic is to sanctify one's proper state in the world, and each member is to sanctify himself in the place where he encounters Christ: this is the commitment that each member takes on in order to realize the goals of Opus

¹⁴Acta Apostolicae Sedis (hereafter cited as AAS) 39 (1947) 114-124.

Dei.¹⁵

Formation

The formation of the members of Opus Dei is rooted in their lives as lay people. A key characteristic of this spiritual formation, as Opus Dei understands it, is the concept of divine filiation. This is a realization that one is a child of God. With this realization comes a profound desire to imitate the Father and to become like the Son.¹⁶ This desire, rooted in divine filiation is the beginning of the individual's sanctification.

This process of sanctification cannot be accomplished without three important elements: the presence of the Holy Spirit, the role of the Holy Family, and the institution of the family. As Escrivá wrote in The Way:¹⁷ "Get to know the Holy Ghost, the Great

¹⁵ Escrivá de Balaguer, Conversaciones, pp. 94-95: "La característica específica nuestra, es santificar el propio estado en el mundo, y santificarse cada uno de los socios en el lugar de su encuentro con Cristo: este es el compromiso que asume cada socio, para realizar los fines del Opus Dei."

¹⁶ LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique," p. 577.

¹⁷ J. Escrivá de Balaguer, The Way (Chicago: Scepter, 1954). The Way is the best-known work of the founder of Opus Dei. It is a book of 999 thoughts for meditations, observations and spiritual counsels.

Unknown, the One who has to sanctify you... the Paraclete is in the center of your soul, listen to Him and follow His inspirations with docility."¹⁸

The Holy Family is especially recommended to the Opus Dei member. The Holy Family is seen as "the earthly trinity." Joseph leads us to Mary: Mary leads us to Jesus. It is Jesus who leads us to the Holy Trinity.¹⁹

The institution of the family is sanctified by the presence of Jesus. Escrivá felt strongly that Christian education must begin with the family. As he wrote, "Parents should know how to educate their children within a familiar setting."²⁰ Escrivá's view of marriage within this framework was positive. He wrote: "those who are married are called to sanctify their marriage and sanctify themselves in their union."²¹ He also said in one of

¹⁸ Ibid., n. 57.

¹⁹ LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique." p. 578.

²⁰ Escrivá de Balaguer, Conversaciones, p. 150: "...los padres sepan educar en un clima de familiaridad..."

²¹ Idem, Es Cristo Que Paso (Madrid, Ediciones Ruedo Ibérico, 1981), n. 23: "Los casados están llamados a santificar su matrimonio y a santificarse en esa unión."

his interviews:

Opus Dei has made marriage a divine path, a vocation which has many consequences for personal sanctification and the apostolate... Whosoever is called to the state of matrimony, finds in this state, with the help of God, all that is needed to be holy, to identify oneself more with Christ each day, and to bring to the Lord the people with whom they live.²²

He also held for celibacy as the preferred path for those who would have leadership positions in the Church because in his opinion the celibate could better dedicate himself to apostolic endeavors.²³ Therefore he wrote in The Way: "Marriage is for the troops, not for the Staff of Christ's Army. For, whereas food is necessary for each individual, procreation is necessary only for the species, and the individual can dispense with it."²⁴

The formation of an Opus Dei member places a great emphasis on the individual's spiritual activity as a means of

²² *Idem*, Conversaciones, p. 115: "El Opus Dei a hecho del matrimonio un camino divino, una vocación y esto tiene muchas consecuencias para la santificación personal y para el apostolado... Quien es llamado al estado matrimonial, encuentra en ese estado--con la gracia de Dios--todo lo necesario para ser santo, para identificarse cada día mas con Jesucristo, y para llevar hacia el Señor a las personas con las que convive."

²³ *Ibid.*, p. 118: "Además es mas facil de comprender y de comprobar que los celibes tienen de hecho mayor libertad de corazón y de movimiento, para dedicarse establemente a dirigir y sostener empresas apostólicas, tambien en el apostolado seglar."

²⁴ *Escrivade Balaguer*, The Way, n. 28.

sanctification. These activities should include: Mass, Communion, adoration of the Blessed Sacrament; recitation of the rosary; readings from the Gospel or another spiritual book; a half-hour to an hour of private prayer; an examination of conscience; weekly confession to an Opus Dei priest; discussions with an Opus Dei lay director and perhaps additional meetings at the Opus Dei centers.²⁵ Members are encouraged to practice mortification. Escrivá wrote: "Unless you mortify yourself you'll never be a prayerful soul."²⁶ Mortification as practiced by an Opus Dei member may involve fasting and other forms of self-denial. Some members may also practice some form of physical mortification.²⁷

Action of the Members

What place does work have in the spirituality and apostolic activity of Opus Dei? According to Escrivá, there is to be no change in the everyday living and working conditions of an Opus Dei member. The apostolic activity of the members takes place in the

²⁵ LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique," pp. 579-84.

²⁶ Escrivá de Balaguer, *The Way*, n. 172.

²⁷ LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique," p. 579.

ordinary daily arena. This work is affected by the spiritual formation of the members and is principally individual. Apostolic activity is seen by Opus Dei as an apostolate that by word and example, gives witness of faith in one's ordinary work.

For Escrivá, the Opus Dei member is "to carry Christ to all the areas where human work takes place: to the factory, to the laboratory, to the work of the land, to the shop of the artisan, to the streets of the great cities and the mountain paths."²⁸

Prayer, work and the apostolate, then are to be united in the ordinary life of the Opus Dei member because of the individual member's relationship with Opus Dei. This relationship is not a strictly canonical obligation in which a member could be forbidden to do a type of work or ordered to carry on a type of apostolate in addition to work. Members of Opus Dei, like all other Catholic members of associations of the faithful, enjoy complete freedom in their professions and secular activities. Their relationship with Opus Dei is a moral relationship by which the member is restricted

²⁸ Escrivá de Balaguer, En Cristo Que Pasa, n. 105: "Llevar a Cristo a todos los Ambitos donde se desarrollan las tareas humanas: a la fábrica, al laboratorio, al trabajo de la tierra, al taller del artesano, a las calles de las grandes ciudades y a los senderos de montaña."

by Catholic faith and morality, and the spirituality and purpose of Opus Dei.²⁹ The member is to apply the three elements of prayer, work, and apostolate to his freely chosen profession and secular activities in the world. The Opus Dei member, prayerfully involved in the world, carries out his apostolic activity there. The world is the place where he encounters Christ. He acquires an intellectual and professional preparation. He freely forms his own criteria in order to deal with the problems he encounters. As a consequence, he makes his own decisions, the decisions of a Christian, from his personal reflections by which he intends to do the will of God.³⁰

The Secularity of Opus Dei

Another quality that is seen as proper and peculiar to the members of Opus Dei is secularity. The laity are like the leaven of the Gospel, working within the world in order to sanctify and renew it. It is natural for the laity of Opus Dei to be engaged in the temporal affairs of the world in which they live, to engage

²⁹New Catholic Encyclopedia, s.v. "Opus Dei," by I. Gramunt.

³⁰A. del Portillo, Mons. Escrivá de Balaguer, Testigo del Amor a la Iglesia (Madrid: Mundo Cristiano, 1976), p. 31.

themselves in temporal occupations, and in the ordinary activities of social and family life.

The lay Opus Dei member has a special vocation from God to be present in the world and to engage in activities so as to direct the world according to God's will. It is precisely in the world where God calls them, like leaven, to live according to the Spirit of the Gospel. This secularity of the lay Opus Dei member makes each one a witness in the mission of the Church. Escrivá puts it this way:

In other words: to follow Christ, to serve the Church, to help humanity recognize their eternal destiny, it is not necessary to abandon the world or to distance oneself from it. It is not necessary to dedicate oneself to an ecclesiastical activity; the necessary and sufficient condition is to accomplish the mission that God has entrusted to each one, in the place and environment given by His Providence.

Since the majority of Christians receive from God the mission of sanctifying the world from within, remaining in the midst of the temporal structures, Opus Dei dedicates itself to help the members discover this divine mission, showing them that the human vocation--the professional, familial, and social vocation--is not opposed to the supernatural vocation: quite the contrary, it forms an integral part of it..³¹

³¹ Escrivá de Balaguer, Conversaciones, pp. 90-91: "En otras palabras: para seguir a Cristo, para servir a la Iglesia, para ayudar a los demás obras a reconocer a su destino eterno, no es indispensable abandonar el mundo o alejarse de el, ni tampoco hace falta dedicarse a una actividad eclesiástica: la condición necesaria y suficiente es la de cumplir la misión que Dios ha encomendado a cada uno, en el lugar y en el ambiente queridos por su Providencia.

"Y como la mayor parte de los cristianos recibe de Dios la misión de santificar el mundo desde dentro, permaneciendo en medio de las estructuras temporales, el Opus Dei se dedica a hacerles descubrir esa misión divina, mostrándoles que la vocación

The secularity of the priests of Opus Dei is somewhat different than the secularity of the lay members. The priests incardinated into Opus Dei are taken from among the lay members of Opus Dei. They are secular priests; they do not take the vows of religious. Their "special mission is to keep the spirit of Opus Dei alive among the other members."³² As Escrivá stated:

The sanctifying function of the lay person needs the sanctifying function of the priest who administers the sacrament of Penance, celebrates the Eucharist and proclaims the Word of God in the name of the Church. Since the apostolate of Opus Dei presupposes a specific spirituality, it is necessary that the priest also give a living witness of this particular spirit.

Right from the founding of Opus Dei, Escrivá looked for an appropriate juridic status within the Church for his association. He felt that nothing in the then current canon law corresponded with the reality that was Opus Dei. For Escrivá, Opus Dei had the

humana--la vocación profesional, familiar y social--no se opone a la vocación sobrenatural: antes al contrario, forma parte integrante de ella."

³²Thierry, Opus Dei: A Close-Up, p. 59.

³³Escrivá de Balaguer, Conversaciones, p. 105: "La función santificadora del laico tiene necesidad de la función santificadora del sacerdote, que administra el sacramento de la Penitencia, celebra la Eucaristía y proclama la Palabra de Dios en nombre de la Iglesia. Y como el apostolado de Opus Dei presupone una espiritualidad específica, es necesario que el sacerdote dé también un testimonio vivo de ese espíritu peculiar."

characteristic of universality and full secularity.³⁴

JURIDIC STATUS OF OPUS DEI

Pious Union

The 1917 Code of Canon Law, in effect at the time of the founding of Opus Dei, provided for religious institutes, associations of the faithful and pious unions.³⁵ From the very beginning Escrivá excluded the notion of founding a religious institute. He felt that religious life was different from Opus Dei because of the latter's notion of secularity. Escrivá said that Opus Dei "is far off from the idea of religious orders"³⁶ which had nothing to do with his institute. Opus Dei "is not comparable, neither in its work nor in the like of its members, with religious, because its members...are, common citizens like other citizens, who

³⁴LeTourneau, "L'Opus Dei, son histoire, sa spiritualité, sa nature juridique," p. 593.

³⁵See Codex Iuris Canonici Pii X Pontificis Maximi Iussu Digestus Benedicti Papae XV Auctoritate Promulgatus (P.J. Kenedy and Sons, Typographi Pontificii, 1917), Liber Secundus, de personis, pars secunda--de religiosis, and pars tertia--de laicis. (Hereafter cited as 1917 CIC.)

³⁶Escrivá de Balaguer, Conversaciones, p. 46: "... está muy lejano de las órdenes religiosas..."

freely carry out all honest human work and professions."³⁷

As we have already seen, in 1941 Opus Dei received approval as a pious diocesan union which gave it its first official recognition. In the 1917 Code of Canon Law a pious union was an association of the faithful erected for the exercise of some work of piety or religion.³⁸ As an association of the faithful membership in a pious union was open to anyone validly received into it according to the association's own statutes.³⁹ Pious unions were subject to the jurisdiction and vigilance of the ordinary.⁴⁰

³⁷Ibid., p. 47: "...ni es en modo alguno comparable, ni por su labor ni por la vida de sus socios, con los religiosos, porque sus miembros--los del Opus Dei--son, como lo acabo de decir, ciudadanos corrientes iguales a los ciudadanos, que ejercen libremente todas las profesiones y todas las tareas humanas honestas."

³⁸1917 CIC, canon 707, § 1: "Associationes fidelium quae ad exercitium alicuius operis pietatis aut caritatis erectae sunt, nomine veniunt 'piarium unionum;' quae, si ad modum organici corporis sint constitutae, 'sodalitia' audiunt."

³⁹1917 CIC, canon 692: "Ad fruendum associationis iuribus, privilegiis, indulgentiis aliisque gratiis spiritualibus, necesse est et sufficit ut quis in eam valide receptus sit, secundum propria associationis statuta et ab ea legitime non expulsus."

⁴⁰1917 CIC, canon 690, §1: "Omnes associationes, etiam ab Apostolica Sede erectae, nisi speciale obstet privilegium, iurisdictioni subsunt et vigilantiae Ordinarii loci, qui ad normas sacrorum canonum eas invisendi ius habet et munus."

Although erection as a diocesan pious union gave Opus Dei official recognition, there were some problems with this legal structure. The purpose of Opus Dei was not one of doing works of piety or religion as was the purpose of a pious unions. The members of Opus Dei attempted to sanctify their ordinary everyday work. The legal structure of a diocesan pious union also confined Opus Dei to the diocese in which it was erected. This was not adequate because Opus Dei intended to spread and grow. Escrivá wanted wider pontifical recognition.

Society of Common Life Without Vows

On December 8, 1943 Opus Dei was given pontifical recognition as a society of common life whose members do not take vows. Further, the Papal Nuncio to Spain, Msgr. Gaetano Cicognani, initiated an investigation of Opus Dei. The results of this investigation were favorable and encouraged Rome to consider approving and recognizing this new form of common life. In 1944 the first lay members were ordained priests.⁴¹

In the 1917 Code of Canon Law a society of common life without vows was a society of men or women imitating religious

⁴¹Thierry, *Opus Dei: A Close-Up*, p. 26. See also Artigues, *L'Opus Dei en Espagne*, p. 31.

life by living in community. The members of the society were under the authority of their superiors according to their constitutions, but they were not bound by the usual three public vows. The members of a society of common life were not religious.⁴² The members attempted to strive after Christian perfection. As a pontifical society of common life Opus Dei came under pontifical jurisdiction, more specifically, the Sacred Congregation for Religious.

This juridic structure answered the problem of growth and wider recognition of Opus Dei. It also made it possible for the incardination of ordained members into the society.⁴³ However, this juridic structure also brought with it its own problems. Most problematic was the element of common life. Even though some members of Opus Dei may live together, common life is not a key

⁴²1917 CIC, canon 673, §1: "Societas sive virorum sive mulierum, in qua sodales vivendi rationem religiosorum imitantur in communi degentes sub regimine Superiorum secundum probatas constitutiones, sed tribus consuetis votis publicis non obstringuntur, non est proprie religio, nec eius sodales nomine religiosorum proprie designantur."

⁴³1917CIC, canon 678: "In iis quae ad studiorum rationem et ad suscipiendos ordines pertinent, sodales iisdem legibus tenentur ac saeculares clerici, salvo peculiaribus praescriptionibus a Sancta Sede datis." See also T. L. Bouscaren and A. C. Ellis, *Canon Law: A Text and Commentary* (Milwaukee: Bruce Publishing Company, 1957), 3rd revised edition, p. 324.

element in the structure of Opus Dei. Therefore, this structure was not viewed as a truly desirable status for Opus Dei, but Escrivá felt that it was the best that was available at the time.

Secular Institute

The apostolic constitution Provida Mater Ecclesia issued by Pope Pius XII on February 7, 1947, gave official ecclesiastical approval to a new juridical state of perfection. Institutes of this new state of perfection are known as secular institutes. The term "secular" was chosen because it clearly indicates the distinction between the new institutes and religious life.⁴⁴ Three weeks later, Opus Dei received its official approval as the first secular institute.⁴⁵

A secular institute may be defined as a society, whether clerical or lay, whose members profess the evangelical counsels in the world in order to attain Christian perfection and to exercise the apostolate fully.⁴⁶ The specific element of the name "secular"

⁴⁴J. Beyer, S.J., Les Instituts Seculiers (Louvain: Editions Desclee de Brouwer, 1954), pp. 290-91.

⁴⁵Thierry, Opus Dei: A Close-Up, pp. 26-27.

⁴⁶Provida Mater, Art. I: "Societates, clericales vel laicales, quarum membra, christianae perfectionis acquirendae atque apostolatum plene exercendi causa, in saeculo consilia evangelica profitentur, ut ab aliis fidelium communibus Associationibus (Pars I, art. 1, § 1, CIC) apte distinguantur. Institutorum sec

distinguishes these new institutes from formal religious institutes and from societies of men or women living in common without public vows. It expresses the proper and specific character of these institutes, which is that their members practice the evangelical counsels and carry out their apostolate while immersed in the world.⁴⁷

Even though the members of secular institutes profess or practice the evangelical counsels, they do not take the three public vows of religion. They are not bound by the proper and special law of religious institutes or of societies of common life.⁴⁸ They are governed by the common norms of canon law and by the norms which the Congregation for Religious and Secular

Institutorum saecularium proprio nomine veniunt, atque huius Constitutionis Apostolicae normis subiiciuntur." AAS 39:120.

⁴⁷ Beyer, S.J., Les Instituts Seculiers, p. 209.

⁴⁸ Provida Mater, Art. II§I: "Instituta saecularia, cum nec tria publica religionis vota (cc. 1308, §1 et 488, 1') admittant, nec communem vitam seu commorationem sub eodem tecto suis membris, ad normam canonum, imponant (cc. 487 sqq. et 673 sqq.):

"1' Iure, ex regula, nec sunt nec proprie loquendo dici queunt Religiones (cc. 487 et 488, 1') vel Societates vitae communis (c. 673, §1);

"2' Religionum aut Societatum vitae communis proprio peculiarique iure non obligantur, neque ipso uti possunt, nisi quatenus aliquod huius iuris praescriptum, illius praecipue quo Societates absque votis publicis utuntur legitime ipsis, per exceptionem, accommodatum fuerit atque applicatum." AAS 39:121.

Institutes may issue by way of norms or interpretation.⁴⁹ Members of secular institutes live in the world, but they are still entrusted to the competency and care of the Sacred Congregation for Religious.⁵⁰

Persons who desire to enter a secular institute as a member must also make a profession before God of celibacy and perfect chastity binding in conscience according to the constitutions.⁵¹ In other words, the faithful who wish to devote themselves to the apostolate without renouncing the right to establish a family cannot aspire to join a secular institute. Secular institutes are

⁴⁹T. Lincoln Bouscaren, S.J. and Adam C. Ellis, S.J., Canon Law: A Text and Commentary, (Milwaukee: Bruce Publishing Company, 1957), 3rd Revised edition, p. 330.

⁵⁰Provida Mater, Art. IV§1: "Instituta saecularia (Art. 1) a Sacra Congregatione de Religiosis dependent salvis iuribus Sacrae Congregationis de Propaganda Fide, ad normam c. 252§3, quoad Societates et Seminarium Missionibus destinata." AAS 39:121.

⁵¹Provida Mater, Art. III§2: "Quoad vitae consecrationem et christianae perfectionis professionem.

"Sodales, qui ut membra strictiore sensu sumpta, Institutis adscribi cupiunt, praeter illa pietatis et abnegationis exercitia, quibus omnes, qui ad perfectionem vitae christianae aspirant, incumbant necesse est, ad ipsam peculiaribus etiam rationibus, quae hic recensentur, efficaciter tendere debent:

"1. Professione nempe coram Deo facta coelibatus et castitatis perfectae, quae voto, iuramento, consecratione in conscientia obliganti, ad normam Constitutionum, firmetur." AAS 39:121.

open only to non-married persons.

Opus Dei became the first secular institute on February 24, 1947 with the Decree *Primum Institutum*.⁵² The leadership of Opus Dei felt that as a secular institute it gained the necessary and rightful autonomy its activities required so that they might expand in a supra-diocesan and international direction.⁵³

It was not long, however, before the leaders of Opus Dei felt that they differed profoundly from secular institutes. Of special concern were constraints placed upon them as a secular institute with regard to episcopal authority. But more importantly, Opus Dei felt the constraint of its canonical link with the Congregation for Religious.⁵⁴ William Stetson, a priest and canonist of Opus Dei, speaking of his own experience, writes:

I myself was in a position to feel somewhat uneasy about this legal status. In my second semester at the Angelicum I took a course on Secular Institutes, taught by a learned and holy Dominican, Fr. Arbus, O.P., who died the following year. His explanation of the canonical figure of Secular Institutes seemed unfamiliar to me. He spoke of the evolution of the "religious states of perfection" and of "consecrated secularity," and of other notions which did not seem to apply

⁵²D. Le Tourneau, "L'Opus Dei en Prelature Personnelle: Dans Le Droit Fil De Vatican II," *Revue des Sciences Religieuses* 57 (1983) 303. See also G. Escudero, *Los Institutos Seculares* (Madrid: Editorial Cocusa, 1954), p. 284.

⁵³Thierry, *Opus Dei: A Close-Up*, p. 43.

⁵⁴Thierry, *Opus Dei: A Close-Up*, p. 43.

to Opus Dei. Not only my own personal experiences in Opus Dei, but also the firsthand teachings of Msgr. Escrivá made it quite clear that all of the lay members, whether single or married, were ordinary Catholic faithful and that the priest of Opus Dei were ordinary secular priests.⁵⁵

The leaders of Opus Dei continued to search for a universal legal status within the Church which they felt would be suitable to their reality. They felt that their distinctly secular vocation demanded a secular juridical configuration. The leaders of Opus Dei felt that their foundational charism could develop its full potential in the new figure of personal prelatures which was first introduced by the Second Vatican Council.⁵⁶

⁵⁵W. Stetson, "Opus Dei: The Church's First Personal Prelature," *Homiletic and Pastoral Review* 83(July 1983) 66.

⁵⁶J. Flader, "Personal Prelatures and Opus Dei," *The Australasian Catholic Record* 60 (1983) 429.

CHAPTER II

PERSONAL PRELATURES AND VATICAN II

A Conciliar Understanding of Personal Prelatures

The personal prelature is one of the new juridic structures that originated in the Second Vatican Council, was subsequently developed in post-conciliar legislation, and was finally inserted in the revised Code of Canon Law. Any understanding of personal prelatures must necessarily begin then with the documents of Vatican II. In this chapter we will study personal prelatures in the documents of the council, post-conciliar documents, schemata for the revision of the code, and the text of the revised code itself. The reason for this procedure is that the council gave a special impetus to personal prelatures as we now have them.

The statements of the council on personal prelatures reflect a pastoral concern of the conciliar fathers rather than a theological or canonical concern. There was a preoccupation on the part of some of the bishops that there be a better distribution of clergy in the Church and an urgency for an adequate response to the peculiar pastoral needs of the day.⁵⁷ For this reason the council discussed personal prelatures in the context of mission. As a result of this brief discussion, which did not go into great detail, a number of questions surfaced in regard to personal

⁵⁷ Acta et Documenta Concilio Oecumenico Vaticano II Apparando Antepreparatoria. Appendix to Volume II (Romae: Typis Polyglottis Vaticanis, 1961), pp. 255-65. See also Gaetano LoCastro. "Le Prelature personali per lo Svolgimento di specifiche funzioni Pastorali." Il Diritto Ecclesiastico (1983) 1-2, p. 87.

prelatures:

1. What is a personal prelature? Is it a hierarchical structure? Is it a particular church?
2. Who can belong to a personal prelature? Clerics? Members of religious institutes? Laity? In what way can they belong?
3. Who are the authorities in a personal prelature? Who are the internal authorities? To whom are they subject?
4. How does a personal prelature relate to the rest of the Church? How does it relate to the local church? The diocesan bishop? The universal Church?

These questions are significant because they address the nature and membership of a personal prelature, the governance of the personal prelature, and the insertion of the personal prelature within the Church. As we take a look at the conciliar and post-conciliar texts, an attempt will be made to answer some of these questions.

Presbyterorum Ordinis

In the decree Presbyterorum ordinis promulgated on December 7, 1965, the council discussed personal prelatures. No. 10 of Presbyterorum ordinis states:

Where an apostolic consideration truly requires it, easier procedures should be devised, not only for the appropriate distribution of priests, but for special pastoral objectives on behalf of diverse social groups, whether these goals are to be achieved in a given area, a nation, or anywhere on earth. To these ends, therefore, there can be usefully established certain international seminaries, special dioceses, or personal prelatures and other agencies of this sort. In a manner to be decreed for each individual undertaking, and without prejudice to the rights of local Ordinaries, priests can thereby be assigned or incardinated

for the general good of the whole Church.⁵⁸

This text was not a casual or last minute insertion in the decree Presbyterorum ordinis, but represents the end product of considerations about personal prelatures all through the drafting process.

The drafting process for Presbyterorum ordinis was extensive. It began on December 17, 1962 when John XXIII named a Commission of Cardinals to coordinate the business and proceedings of the council.⁵⁹ This coordinating commission instructed the commission De Disciplina Cleri et Populi Christiani to produce a draft for a decree which would be called De Clericis. The final draft of De Clericis was accepted by the coordinating commission on April 22, 1963 and circulated to the council fathers. At this point personal prelatures were mentioned as a footnote in an exhortation contained

⁵⁸Vatican II. "Decree on the Ministry and Life of the Priests." Presbyterorum ordinis, December 7, 1965 n. 10: AAS 58(1966) 1007: "Normae praeterea de incardinatione et excardinatione ita recognoscantur ut, pervetere hoc instituto firmo manente, ipsum tamen hodiernis pastoralibus necessitatibus melius respondeat. Ubi vero ratio apostolatus postulaverit, faciliora reddantur non solum apta Presbyterorum distributio sed etiam peculiaris opera pastoralia pro diversis coetibus socialibus, quae in aliqua regione, vel natione aut in quacumque terrarum orbis parte perficienda sunt. Ad hoc ergo quaedam seminaria internationalia, peculiare dioeceses vel praelaturae personales et alia huiusmodi utiliter constitui possunt, quibus, modis pro singulis inceptis statuendis et salvis semper iuribus Ordinariorum locorum. Presbyteri addici vel incardinari queant in bonum commune totius Ecclesiae." English translation from Walter M. Abbott, S.J., The Documents of Vatican II (New York: America Press, 1966) 555.

⁵⁹Joseph Lacuyer. "Decree on the Ministry and Life of Priests," in Commentary on the Documents of Vatican II, ed. H. Vorgrimler, 5 vols. (New York: Herder and Herder, 1969) 4:185.

in an appendix concerning the distribution of clergy.⁶⁰

When De Clericis was circulated, a request was made of the council fathers to send their comments to the General Secretary of the council. These comments provided a basis for revising the text. As a result of these comments the notion of a personal prelature was placed in the body of the revised text.⁶¹

The coordinating commission decided that this new draft of De Sacerdotibus (the new title given to De Clericis) should be reduced and reformulated to give only a few simple propositions to be voted on by the council. Ten guiding propositions were agreed upon in time to be discussed at the plenary session of the commission on March 3-5, 1964. The sixth of these propositions referred to personal prelatures.⁶² The commission De Disciplina Cleri et Populi Christiani formulated this proposition to meet a serious pastoral need for a better distribution of clergy and was in the context of special apostolic work.⁶³ This amended text of De Sacerdotibus was distributed to the council fathers on April 27, 1964.⁶⁴

⁶⁰ Acta Synodalia Sacrosancti Concilii Vaticani II, Vol. III, Per. III, Pars IV (Romae: Typis Polyglottis Vaticanis, 1974), pp. 844-45. (hereafter cited Acta Synod.)

⁶¹ Ibid., p. 882.

⁶² Ibid., p. 848.

⁶³ Ibid., p. 851.

⁶⁴ Ibid., p. 949.

There were subsequent revisions of the draft schema incorporating the proposals and the discussions of the council fathers. With regard to personal prelatures almost nothing was changed. The final draft of the text contained in the decree Presbyterorum ordinis is virtually unchanged from the texts which had appeared in the various drafts from the amended text De Sacerdotibus (April 27, 1964) up to its final form. At each stage of the drafting process concern was expressed over the distribution of clergy for pastoral and missionary activity. It was as part of this concern that personal prelatures were considered by the council.

In earlier drafts, the council made a number of specific suggestions concerning personal prelatures and how they operate.⁶⁵ These suggestions were considered too detailed for the conciliar text and therefore did not appear in the final draft. However, the council did see personal prelatures as a possible new juridic structure in the Church for "apostolic considerations" and for "the good of the whole Church."

In view of the above, the following points can be drawn from the decree Presbyterorum ordinis:⁶⁶

1. There is the possibility of establishing "special dioceses or

⁶⁵For a more detailed explanation of the specific suggestions made see Joseph E. Fox, "The Personal Prelature: An Institute of the Second Vatican Council," J.C.L. dissertation, Washington, D.C.: The Catholic University of America, 1980, p. 90.

⁶⁶Pedro Rodríguez and Amadeo de Fuenmayor, "Sobre la Naturaleza de las Prelaturas Personales y su Inserción Dentro de la Estructura de la Iglesia." Ius Canonicum 24 (1984) 12.

personal prelatures." We are speaking here of two institutions each with its own peculiar nature, but both considered possible in an attempt to carry out the "special pastoral objectives."

2. There is the possibility of an ecclesiastical structure to respond adequately to the pastoral needs of modern society. The council fathers, sensitive to the concrete pastoral needs of the Church, saw as useful the creation of new structures, such as special dioceses and personal prelatures, suitable for these pastoral needs, which would be juridically outlined at a later time.⁶⁷

3. Finally, a study of the schema De Sacerdotibus clearly points out the concern that the council fathers had in creating a new structure. Therefore, they suggested criteria and guidelines for the correct insertion of personal prelatures in the local Church.⁶⁸

It is clear that the council fathers did not see personal prelatures as a mere development of already existing associations of priests. This was given specific consideration in Presbyterorum ordinis in a different context.⁶⁹ Nor did they see personal prelatures as the best expression on states of perfection or consecrated life. These were seen as totally different from personal prelatures. In Presbyterorum ordinis, then, one could

⁶⁷Decree Christus Dominus, November 21, 1965, n. 44a: AAS 58 (1966) 695.

⁶⁸Acta Synod., Vol. III, Pars IV. p. 881: "Schema Propositionum De Sacerdotibus." See Ibid., p.848.

⁶⁹Decree Presbyterorum ordinis, n. 8, b.

answer the questions first raised concerning personal prelatures as follows:

1. What is a personal prelature? It seems that according to Presbyterorum ordinis personal prelatures were envisioned as a new structure, not a particular Church. Personal prelatures are mentioned in the same sentence with personal dioceses in the context of the distribution of clergy and not the establishment of particular churches.

2. Who can belong to a personal prelature? According to Presbyterorum ordinis, priests alone are mentioned as forming the personal prelature. Since it does not include a portio Populi Dei, the personal prelature cannot be a particular church.⁷⁰

3. What are the authorities in a personal prelature? This is not clear in Presbyterorum ordinis. What is clear is that priests can be incardinated into the prelature "in a manner to be decreed for each individual undertaking, and without prejudice to the rights of local Ordinaries. . . ."⁷¹

4. How does a personal prelature relate to the rest of the Church? Since Presbyterorum ordinis speaks of personal prelatures in the context of the distribution of priests and special pastoral

⁷⁰Decree Christus Dominus, n. 11. The term "particular church" as used in Christus Dominus, the conciliar decree with the most direct legal implications for diocesan and parish law, refers to the diocese. It is evident in Christus Dominus that an entity must be a portio Populi Dei if it is to be a particular church.

⁷¹Decree Presbyterorum ordinis, n. 10, p. 1007. " . . . quibus, modis singulis inceptis statuendis et salvis semper iuribus Ordinarium locorum. . . ."

objectives for the good of the whole Church, it appears that personal prelatures were envisioned to be in service to the whole Church.

A study of Presbyterorum ordinis shows the importance of studying the progress of all conciliar documents. This is particularly important in the case of Presbyterorum ordinis, which was promulgated in the last session of the council. The juridic figure of the personal prelature is inserted within this conciliar context. The decree Presbyterorum ordinis, especially in n. 10, is one of the conciliar texts which attempts to introduce new institutional developments in the law of the Church.⁷²

PERSONAL PRELATURES IN POST-CONCILIAR LEGISLATION

Ecclesiae Sanctae

Since the close of Vatican II there have been further developments regarding personal prelatures. An examination of the motu proprio Ecclesiae Sanctae and the apostolic constitution Regimini Ecclesiae universae demonstrates the continuity between the council and subsequent legislation in this matter. Ecclesiae Sanctae was promulgated to provide some of the new structures which were intended by the council. These norms, experimental, were to be in effect until the promulgation of the new code.

Ecclesiae Sanctae, whose purpose was to implement four conciliar decrees, is divided into three parts. Part I implemented the decrees Christus Dominus and Presbyterorum ordinis; Part II

⁷²Rodriguezy Fuenmayor, pp. 16-17.

implemented Perfectae caritatis; Part III dealt with Ad gentes.⁷³
Ecclesiae Sanctae I, n. 4 contains the norms for the implementation
 of Presbyterorum ordinis n. 10:

Moreover, to carry on special pastoral or missionary work for various regions or social groups which need special assistance, Prelatures can be established by the Apostolic See consisting of specially trained priests from the secular clergy. These Prelatures are governed by their own Prelates and have their own statutes.

It will pertain to such a prelate to establish and direct a national or international seminary in which students will be properly trained. He shall also have the right to incardinate these students and to promote them to Orders on the title of the service of the Prelature.

The Prelate must provide for the spiritual life of those whom he has promoted on the above title, and for the constant progress of their special formation and for their particular ministry, through agreements entered into with the Ordinaries of the places to which the priests are sent. Likewise, he must provide for their proper support, which should be taken care of in the said agreements, either from property belonging to the Prelature itself, or from other suitable sources. He must also make provision in some such way for those who because of poor health or for some other reason are obliged to abandon the work assigned to them.

There is no objection to lay persons, single or married, dedicating themselves by contract, with their professional skill, to the works and projects of the Prelature.

Such prelatures are not erected without consulting the Bishops' Conference of the territory where they are going to work. In the work itself great care must be taken to respect the rights of the local Ordinaries and to maintain constantly close relations with the Episcopal Conferences.⁷⁴

⁷³Paul VI, motu proprio Ecclesiae Sanctae, August 6, 1966: AAS 58 (1966): 702-712.

⁷⁴Ecclesiae Sanctae, n. 4, pp. 760-761. Translation from T. Lincoln Bouscaren, S.J., ed., The Canon Law Digest 6 (Milwaukee: Bruce Publishing Co., 1969), pp. 267-68 (hereafter cited as CLD with volume, number and page).

"4. Praeterea, ad peculiaris opera pastoralia vel missionaria perficienda pro variis regionibus aut coetibus socialibus, qui speciali indigent adiutorio, possunt ab Apostolica Sede utiliter erigi Praelaturae, quae constant presbyteris cleri saecularis, peculiari formatione donatis, quaeque sunt sub regimine proprii Praelati et propriis gaudent statutis.

"Huius Praelati erit nationale aut internationale erigere ac

Ecclesiae Sanctae 1, n. 4 deals specifically with prelatures and their particular pastoral work. In an attempt to address certain canonical concerns, the norms give a visible structure to the Church for the good of the community. Therefore the personal prelature is erected "to carry on special pastoral or missionary work." Rodriguez and Fuenmayor point out that personal prelatures were thus circumscribed by Ecclesiae Sanctae:

In regards to personal prelatures the following are determined: the reason for the existence of the new Prelatures; their erection by the Apostolic See having heard those Episcopal Conferences interested; the secular character and the special formation of its clergy; its governance under a proper Prelate; the attributing of particular statutes; the mission, rights and obligations of the prelate in respect to the priests ordained to the title of Servitium praelaturae; the possibility that laity may dedicate themselves to the service of the work and initiative of the Prelature; the relationship of the Prelatures with the Episcopal Conferences

dirigere Seminarium, in quo alumni apte instituantur. Eidem Praelato ius est eosdem alumnos incardinandi, eosque titulo servitii Praelaturae ad Ordines promovendi.

"Praelatus prospicere debet vitae spirituali illorum, quos titulo praedicto promoverit, necnon peculiari eorum formationi continuo perficiendae, eorumque peculiari ministerio, initis conventionibus cum Ordinariis locorum ad quos sacerdotes mittuntur. Item providere debet ipsorum decora sustentationi, cui quidem consulendum est per easdem conventiones, vel bonis ipsius Praelaturae propriis, vel aliis subsidiis idoneis. Similiter prospicere debet iis qui ob infirmam valetudinem aut aliis ob causas munus sibi commissum relinquere debent.

"Nihil impedit quominus laici, sive caelibes sive matrimonio iuncti, conventionibus cum Praelatura initis, huius operum et inceptorum servitio, sua peritia professionali, sese dedident.

"Tales Praelaturae non eriguntur, nisi auditis Conferentiis Episcoporum territorii, in quo operam suam praestabunt. In qua exercenda sedulo caveatur, ut iura Ordinariorum locorum servantur et cum iisdem Conferentiis Episcoporum arctae rationes continuo habeantur."

and the local Ordinaries.⁷⁵

Continuity Between Vatican II and Ecclesiae Sanctae

There is a substantial continuity between the motu proprio and the conciliar decree Presbyterorum ordinis. Moreover, Ecclesiae Sanctae goes into greater detail than Presbyterorum ordinis on the particulars of personal prelatures. This can be seen in the norms that deal with the faculties and obligations of the prelate concerning the creating and direction of seminaries, the incardination and promotion to orders, the spiritual life and formation of priests. This list of issues is taken almost word for word from the development of the conciliar commission and especially from the schema De Sacerdotibus.⁷⁶

The motu proprio also clarifies the following characteristics of prelatures as first seen in Presbyterorum ordinis:

1. The reason for the erection of a personal prelature is "to carry on special pastoral or missionary work."
2. It is established that the clerics incardinated into the prelature are to be ordained "to the title of the service of the

⁷⁵Rodríguez y Fuenmayor, p. 18. "Acerca de las Prelaturas personales quedan determinados: la razón de ser de las nuevas Prelaturas; su erección por la Sede Apostólica oídas las Conferencias episcopales interesadas; el carácter secular y la formación especializada de su clero; su gobierno por un Prelado propio; la atribución de Estatutos particulares; la misión, derechos y deberes del Prelado respecto de los sacerdotes ordenados a título de servitius Praelaturae; la posibilidad de que se dediquen laicos al servicio de las obras e iniciativas de la Prelatura; la relación de estas Prelaturas con las Conferencias Episcopales y con los Ordinarios del lugar." See also LoCastro, pp. 102-106.

⁷⁶Acta Synod., vol. III, Pars IV, p. 880.

prelature."

3. The new prelatures are erected taking into account the help that they can give to the local Church.⁷⁷

Ecclesiae Sanctae answers our four areas of concern in greater detail than Presbyterorum ordinis:

1. What is a personal prelature? Ecclesiae Sanctae underscores the nature of personal prelatures as an ecclesiastical structure to be erected by the Apostolic See. Once again, the reason for the erection of a personal prelature is to carry on special pastoral or missionary work. What has not been mentioned in Ecclesiae Sanctae is the distribution of clergy concern.

2. Who can belong to a personal prelature? Secular clerics can be incardinated into the prelature. Laity, although not incorporated into the prelature, can dedicate themselves by contract to the work of the prelature.

3. What are the authorities in a personal prelature? The internal authority of a personal prelature is the prelate and the prelature's own statutes. The prelate is to govern and direct the members and the work of the prelature.

4. How does a personal prelature relate to the rest of the Church? The prelate must respect the rights of the local ordinary. The prelate must enter into agreements with the local ordinaries to carry out the prelature's particular ministry. A prelature cannot be erected without consulting the episcopal conference.

This connotes that a prelature is to serve the needs of a region or local church.

Regimini Ecclesiae Universae

On August 15, 1967 Paul VI promulgated the apostolic constitution Regimini Ecclesiae universae.⁷⁸ This apostolic constitution had as its purpose the reform of the Roman Curia and the detailing of the competency of each congregation. It gave the congregation for Bishops competency in all cases dealing with the hierarchical structures of the Latin Church, by which the Church organizes its pastoral activities. In n. 49 § 1 of this apostolic constitution we read the following:

It belongs to the Congregation of Bishops: In places and as regards persons not subject to the Congregation for the Oriental Churches or the Congregation for the Evangelization of Nations, to establish new dioceses, provinces, regions, and, after they have been established, to divide, unite, or revise the same both at the proposal of the interested episcopal conferences and after hearing their opinion, if the case warrants it; to erect Military Vicariates and, after consulting the territorial episcopal conference, Prelatures for carrying out special pastoral activities for various regions or for social groups requiring special help. It deals, moreover, with matters concerning the nomination of Bishops, Apostolic Administrators, Coadjutor and Auxiliary Bishops, Military Vicars, and other Vicars or Prelates enjoying personal jurisdiction.⁷⁹

⁷⁸ Paul VI, apostolic constitution Regimini Ecclesiae universae, August 15, 1967: AAS 59 (1967) 885-928.

⁷⁹ Ibid., p. 901 (Translation CLD 6: 333). "49 § 1. Ad Congregationem pro Episcopis spectat, in locis et pro personis non obnoxii Congregationi pro Ecclesiis Orientalibus vel pro Gentium Evangelizatione, novas dioeceses, provincias, regiones constituere, easdem constitutas dividere, unire, recognoscere, tum Conferentiis Episcopalibus--quarum intersit--proponentibus, tum iisdem, si casus ferat, auditis: Vicariatus Castrenses erigere necnon, auditis Conferentiis Episcoporum territorii, Praelaturas ad peculiaris opera pastoralia perficienda pro variis regionibus aut coetibus socialibus speciali adiutorio indigentibus agit praeterea quae

As we read the responsibilities of the Congregation for Bishops above, we see that personal prelatures are within the competency of this congregation. Since the personal prelature is not simply an association of secular priests, it was not placed under the competency of the Congregation for the Clergy. The Congregation for Clergy is competent in all those matters which concern clerics who exercise the apostolate in a diocese, both as regards their person and their work and pastoral ministry.⁸⁰ Personal prelatures were placed under the Congregation for Bishops, and so appear as a hierarchical structure of the Church. This related personal prelatures more closely with particular churches in as much as they are considered in the same category as other institutes which are particular churches or are equated with them.

1. What is a personal prelature? Regimini Ecclesiae universae seems to confuse the issue by placing personal prelatures under the Congregation for Bishops and seeming to equate the personal prelature with a particular church. This was a notion what had been avoided during the council.

2. Who can belong to a personal prelature? Regimini Ecclesiae universae sheds no light on this question.

3. Who are the authorities in a personal prelature? The personal prelature, according to Regimini Ecclesiae universae, is

attingunt Episcopos, Administratores Apostolicos, Coadiutores et Auxiliares Episcoporum, Vicarios Castrenses ceterosque Vicarios seu Praelatos iurisdictione personali fruentes nominandos." (Emphasis mine.)

placed under the competency of the Congregation for Bishops rather than the Congregation for the Clergy.

4. How does a personal prelature relate to the rest of the Church? Once again we find that personal prelatures carry out special pastoral activities as an aid to various regions or for special groups within the Church.

PERSONAL PRELATURES IN THE REVISED CODE

We will now see how the conciliar and post-conciliar legislation has influenced the institute of the personal prelature in the revised code. Personal prelatures are presented in the new code as juridical structures with their own proper characteristics. But to understand these characteristics properly, it is not enough to have seen the developments in conciliar and post-conciliar documents: it is also necessary to explore the development of personal prelatures in the various schemata and its final placement in the revised Code of Canon Law.⁸¹ This may help clarify the type of structure a personal prelature is within the Church.

1977 Schema

The 1977 schema entitled De Populo Dei,⁸² was divided into two parts: Part I, De personis in genere; Part II, De personis in specie. Part II was subdivided into four sections: Section I, De ministris sacris seu de clericis; Section II, De institutis vitae

⁸¹Piero Giorgio Marcuzzi, S.D. B., "Le Prelature Personali Nel Nuovo Codice Di Diritto Canonico," Apollinaris 56 (1983) 130.

⁸²Pontificio Commissio Codicis Iuris Canonici Recognoscendo, Schema Canonum Libri II: De Populo Dei (Romae: Typis Polyglottis Vaticanis, 1977). (Hereafter cited as 1977 Schema).

consecratas per professionem consilliorum evangelorum; Section IV.
De christianifidelibus laicis.

In Section II, De ecclesiae constitutione hierarchica, title II dealt with particular churches and their groupings. In chapter II of this title, De ecclesiis particularibus et de auctoritate in iisdem constituta we find article 1, De ecclesiis particularibus. In this article personal prelatures were mentioned three times, in canons 217, 219 and 221. At first glance this would indicate an equating of personal prelatures with a diocese or particular church.⁸³

Canon 217, § 2 states:

Equivalent to a particular church in law, unless otherwise evident from the nature of the matter or a prescription of law, is a personal prelature, which indeed is competent to incardinate clerics who are sent to provide sacred ministry (service) in some particular church laboring under a shortage of clergy or who are destined to carry out some special pastoral or missionary work for various regions or social groups, which are in need of special aid.⁸⁴

Canon 217, § 2 states that a personal prelature is equivalent to a particular church. The canon describes a personal prelature as consisting of incardinated clergy. Yet we have already seen how the notion of a particular church includes a portion of the People

⁸³ Marcuzzi, p. 131.

⁸⁴ 1977 Schema, Canon 217, § 2:

"Ecclesiis particularibus in iure aequiparatur, nisi ex rei natura aut iuris praescripto aliud appareat. Praelatura personalis cui quidem competit clericos sibi incardinare qui mittantur ad servitium sacrum praestandum in aliqua Ecclesia particulari cleri inopia laborante aut destinentur ad peculiaris opera pastoralia vel missionalia perficienda pro variis regionibus aut coetibus socialibus, qui speciali indigent adiutorio."

of God. In other words, the concept of particular church as found in this canon is problematic. Both notions, a diocese and a prelature, are verbally stated to be equivalent to a particular church. Yet one fulfills all the elements of a particular church, that is, including a portion of the People of God, the other does not. The canon seems to be describing one kind of hierarchical institute, but calls it something else.

Canon 219 states:

§1. Prelatures and Abbeys with their own proper people and territorial boundaries, are likened to dioceses, whose care because of special circumstances, is committed to a Prelate or Abbot who rules it as its own proper pastor in the same way as the diocesan Bishop.

§2. However a prelature with its own proper people can also be had when a part of the people of God committed to the care of the Prelate has a personal character, that is embracing only those faithful who are linked together in some special way: military Prelatures are of this type, they are called military Vicariates.⁸⁵

The first part of this canon dealt with territorial prelatures. Paragraph two dealt with a personal prelature. This personal prelature would consist of a prelate and its own proper people linked together in some special way. In this canon we have a more correct understanding of a particular church because it contains the notion of a portion of the people of God.

⁸⁵ Ibid., c. 219:

"§ 1. Dioecesi assimilantur Praelatura et Abbatia cum proprio populo, territorialiter quidem circumscripto, cuius cura, specialia ob adiuncta committitur alicui Praelato aut Abbati, qui eum ad instar Episcopi dioecesanis, tanquam proprius eius pastor regat.

"§ 2. Praelatura tamen cum proprio populo item haberi potest cum portio populi Dei. Praelati curae commissa, indolem habeat personalem, complectens nempe solos fideles speciali quadam ratione devinctos: huiusmodi sunt Praelaturae castrenses, quae Vicariatus castrenses quoque appellantur."

Canon 221 states:

§1. The general rule is that a portion of the People of God which constitutes a Diocese or other particular church has a definite territory so that it includes all the faithful dwelling in the territory.

§2. However, where it appears useful in the judgment of the Supreme Authority of the Church, having listened to the conferences of Bishops involved, particular churches distinct because of the rite of the faithful, can be erected in the same territory. Likewise, where the care of souls requires it, Dioceses or Prelatures can be erected embracing all and only those faithful living in a certain territory who are linked together in some way other than a different rite, or even a personal Prelatures which are not limited to any territory.⁸⁶

Paragraph one states the general rule concerning territorial dioceses. The second paragraph of canon 221 deals with the erection of personal dioceses and personal prelatures. Personal prelatures are seen, as stated in canon 219, as consisting of a prelate, clergy and people. This is a more correct understanding of a particular church because of the presence of a portio Populi Dei. What we then have in the canons of this schema are two notions of personal prelatures, one that includes people other than clerics and one that does not, yet both being referred to as a particular Church.

⁸⁶ Ibid., c. 221.

"§ 1. Pro regula habeatur ut portio populi Dei quae Dioecesim aliquamve Ecclesiam particularem constituat, certo territorio circumscribatur, ita ut omnes comprehendat fideles in territorio habitantes.

"§ 2. Attamen, ubi de iudicio supremae Ecclesiae auctoritatis, auditis quarum interest Episcoporum Conferentiis, utilitas id suadeat, in eodem territorio erigi valent Ecclesiae particulares ratione ritus fidelium distinctae; item, ubi animarum cura id requirat, constitui valent Dioeceses vel Praelaturae complectentes omnes et solos fideles alia ratione quam ritu determinata devinctos in certo territorio habitantes, immo vel Praelaturae personales nullo quidem territorio definitae."

These canons repeat many of the provisions found in the previous documents (PO, ES, REU). Canon 217 of this schema equates personal prelatures with a particular church. This notion did not appear in any of the previous legislation. This canon also speaks of the distribution of clergy as mentioned in De sacerdotibus and Presbyterorum ordinis. The purpose of a personal prelature as dealing with specific pastoral (or missionary) work can be found in De sacerdotibus, Presbyterorum ordinis and Ecclesiae Sanctae. The notion of the incardination of its own clergy as well as the personal prelature's consisting of a prelate and its own people derives from Ecclesiae Sanctae, although lay persons can be united to the prelature by contract. It seems evident that some of the canons of this schema derive from one source and some from others.

Upon close examination of canons 217, 219 and 221 of the 1977 schema we find some confusion. Canon 217 seems to speak of a different kind of personal prelature from that found in canon 219 and 221. The kind of personal prelature envisioned in canon 217 would serve particular churches or special groups. It would not consist of its own portion of the People of God. In contrast, canons 219 and 221 speak of personal prelatures as including a portion of the People of God.

In answer to the four questions that we raised, the 1977 schema states the following:

1. What is a personal prelature? As already stated, there is some inconsistency and confusion in this area. In canon 217 a personal prelature is a structure that is composed of a prelate and

priests in service to a particular church or special group. However, in canons 219 and 221 a personal prelature is very much likened to a particular church in that it consists of prelate, priests and people.

2. Who can belong to a personal prelature? According to the 1977 schema, priests can belong to a personal prelature and can be incardinated into the prelature. Also, other people who are linked in a special way can belong to a personal prelature.

3. Who are the authorities in a personal prelature? The authority in a personal prelature is the prelate. The prelate is the proper pastor of the personal prelature in the same way as the diocesan bishop is in the diocese. Canon 221, § 2 also mentions the judgment of the Supreme Authority and the Conference of Bishops in the erection of personal prelatures within a given jurisdiction.

4. How does a personal prelature relate to the rest of the Church? The 1977 schema speaks of personal prelatures as a hierarchical structure or a particular church (confusion) that is to interact with particular churches or special groups in carrying out special pastoral or missionary work.

1980 SCHEMA

The 1980 schema clearly states that a personal prelature consists of the prelate, clergy and a portion of the People of God. This would therefore indicate that a personal prelature is equal to a particular church. A particular church can be either territorial or personal, either a diocese or a prelature. Canons 332, § 2 and 339, § 2 state:

Can. 337, §2. A personal prelature is held to be a portion of the People of God having a personal nature, entrusted to a Prelate to perform particular pastoral or missionary works. This personal prelature embraces only the faithful bound to it by a special reason. Prelatures of this kind are military, they are also called Military Vicariates.⁸⁷

Can. 339, §2. There can, nevertheless, be erected within the same territory particular churches which are distinct by reason of the rite of the faithful when such is deemed advantageous in the judgement of the Supreme Authority of the Church after it has listened to the Conferences of Bishops concerned without prejudice to the rights of the local ordinaries. Where the care of souls should demand it, dioceses or prelatures can likewise be established which embrace all and only those faithful inhabiting that territory who are joined together for some determined reason other than that of rite.⁸⁸

These canons show a continuity with canons 217, 219 and 221 of the 1977 schema concerning personal prelatures and particular churches. Canon 335, §2 of the 1980 schema adds:

Can. 335, §2. Unless it is otherwise evident by the nature of the case or by law, a personal prelature is likened to a particular church in law according to the statutes

⁸⁷ Schema Codicis Iuris Canonici (Romae: Libreria Editrice Vatican, 1980), c. 337:

"§2. Praelatura personalis, etiam ad peculiaria opera pastoralia vel missionaria perficienda, habetur cum portio populi Dei. Praelati curae commissa, indolem habeat personalem, complectens nempe solos fideles speciali quadam ratione devinctos; huiusmodi sunt Praelaturae castrenses, quae Vicariatus castrenses quoque appellantur."

⁸⁸ Ibid., c. 339:

"§2. Attamen, ubi de iudicio supremae Ecclesiae auctoritatis, auditis quarum interest Episcoporum Conferentiis, utilitas id suadeat, in eodem territorio erigi valent Ecclesiae particulares ratione ritus fidelium distinctae; item, ubi animarum cura id requirat, salvis iuribus Ordinariorum locorum, constitui valent Dioeceses vel Praelaturae complectentes omnes et solos fideles alia ratione quam ritu determinata devinctos in certo territorio habitantes, immo vel Praelaturae personales, nullo quidem territorio definitae."

established by the Apostolic See.⁸⁹

This reference to the statutes of the personal prelature, requiring the necessary approval of the Apostolic See, is new.

The 1980 Schema dropped from the 1977 Schema any reference to the incardination of clergy into the prelature. In fact, canon 337 § 2 states that a personal prelature "embraces only the faithful bound to it by a special reason."

From these canons of the 1980 schema it seems very clear that personal prelatures are parallel to territorial prelatures and therefore are likened to a particular church. At this point in the revision process, personal prelatures still remain within the context of particular churches although not always fully.

The 1980 schema answers our four questions as follows:

1. What is a personal prelature? It is seen as a portion of the People of God entrusted to a Prelate. Its purpose is to perform particular pastoral or missionary works.

2. Who can belong to a personal prelature? According to the 1980 schema a personal prelature embraces only the faithful bound to it by a special reason, entrusted to a prelate. There is no special mention made of priests or clerics belonging to a personal prelature; they relate to the prelature as to any particular church.

3. Who are the authorities in a personal prelature? The

⁸⁹Ibid., c. 335:

"§2. Ecclesiae particulari in iure aequiparatur, nisi ex rei natura aut juris praescripto aliud appareat, et iuxta statuta a Sede Apostolica condita, Praelatura personalis."

authority in a personal prelature continues to be the prelate to whom the faithful are entrusted. Other authorities would be the Supreme Authority of the Church as well as the statutes established by the Apostolic See.

4. How does a personal prelature relate to the rest of the church? The 1980 schema speaks of personal prelatures being inserted within the territories of particular churches when it is deemed advantageous by the Supreme Authority. However, in doing so there must be consultation with the Conference of Bishops concerned without prejudice to the rights of the local ordinary.

1981 RELATIO

The 1981 Relatio, is a report on the comments on the 1980 schema sent in by the commission members in preparation for the meeting of the code commission. The Relatio is a document in preparation for the final text of the code, but subject to review by the members of the code commission at its 1981 October plenary meeting.

Some of the comments indicated opposition to the placement of personal prelatures within the context of particular churches and with the equating of personal prelatures with particular churches.⁹⁰ The fathers pointed out that equating prelatures with particular churches would not be faithful to the intent of Christus Dominus. It was also observed that equating personal prelatures with

⁹⁰ Communicationes 12 (1980) p. 280:
 "nei canoni non si afferma che la Prelatura personale è uguale ad una Diocesi o Chiesa particolare 'pleno iure'; c'è soltanto una parziale equiparazione giuridica."

particular churches would be contrary to Ecclesiae Sanctae I, n. 4. It was observed that personal prelatures are not constituted for ordinary pastoral care as are particular churches. This was a hotly contested issue in the comments made by the fathers.⁹¹

At the commission meeting the commission's own discussion resulted in rejecting the 1980 schema since it modeled the personal prelature too closely on the particular church. Canons 335, 337 and 339 failed to win approval by votes of 19 out of 49, 14 out of 50, and 16 out of 50 respectively. The secretariat was charged with developing substitutions based on Cardinal Ratzinger's suggested model by a vote of 39 out of 50.⁹²

Analyzing the 1981 Relatio according to the four questions for our study:

1. What is a personal prelature? It seems that the question was hotly debated and clearly resolved that a personal prelature is not a particular church. Some members, however, did not agree with this latter position.

2. Who can belong to a personal prelature? The 1981 Relatio does not shed any new light on this question.

3. Who are the authorities in a personal prelature? Apart from the prelate who is the internal authority of a personal prelature, the 1981 Relatio stressed the importance of the rights of the diocesan bishop in whose local church the personal prelature

⁹¹Marcuzzi, p. 132.

⁹²Private Report by John A. Alessandro, Peritus for Cardinal Ratzinger (then Archbishop) at commission meeting (undated).

is inserted.

4. How does a personal prelature relate to the rest of the Church? One of the comments in the 1981 Relatio stressed that a personal prelature is not involved in the ordinary pastoral care of the diocese and is to operate with due regard to the rights of the local church.

We can now reflect on the results of the commission's discussion in light of the 1982 schema which represents a revision of the 1980 schema based in part upon the commission's October 1981 meeting. It was this 1982 schema which was presented to the pope for final approval. The comments made in the Relatio influenced the treatment of the question of personal prelatures and their final placement in the code.⁹³

1982 SCHEMA

In the 1982 schema the material on personal prelatures is reworked from one canon with four paragraphs to four distinct canons.⁹⁴ These canons, canons 573 to 576 inclusive, were found at the end of the treatment "On Hierarchy," forming title IV on personal prelatures.

Can.573. Personal prelatures which consist of priests and deacons of the secular clergy can be erected by the Apostolic See, in order to promote an appropriate distribution of presbyters or to perform particular pastoral or missionary works for various regions or different social groups.

Can.574, §1. A personal prelature is governed by the statutes established by the Apostolic See, and it is presided

⁹³ Communicationes 14 (1982): 201-03.

⁹⁴ Marcuzzi, p. 133. See also Rocca, L'Opus Dei: Appunti e Documenti Per Una Storia, (Roma: Edizioni Paoline, 1985) p. 101.

over by a prelate as its proper ordinary, who has the right to erect a national or international seminary, to incardinate the students, and to promote them to orders under the title of service to the prelature.

§2. The prelate must see to the spiritual formation and to the decent support of those whom he has promoted by the above mentioned title.

Can. 575. Lay persons can dedicate themselves to the apostolic works of the personal prelature by agreements entered with the prelature; the mode of this incorporation and the principal duties and rights derived from it shall be appropriately determined in the statutes.

Can. 576. The statutes shall likewise define the relations of their personal prelature with the local ordinaries in whose particular churches the prelature itself exercises or desires to exercise its pastoral or missionary works, with the prior consent of the diocesan bishop.⁹⁵

It is helpful to see the relationship between the 1982 text and Ecclesiae Sanctae. In analyzing these two it is evident that

⁹⁵Pontificia Commissio Codici Iuris Canonici: Recognoscendo, Schema Codicis Iuris Canonici (Romae: Libreria Editrice Vaticana, 1982).

"Can. 573 - Ad aptam presbyterorum distributionem promovendam aut ad peculiaria opera pastoralia vel missionalia pro variis regionibus aut diversis coetibus socialibus perficienda, praelaturae personales ab Apostolica Sede erigi possunt, quae presbyteris et diaconis cleri saecularis constant.

"Can. 574 - §1. Praelatura personalis regitur statutis ab Apostolica Sede conditis, eique praeficitur Praelatus ut Ordinarius proprius, cui ius est nationale vel internationale seminarium erigere necnon alumnos incardinare, eosque titulo servitii praelaturae ad ordines promovere.

"§2. Praelatus prospicere debet sive spirituali institutioni illorum, quos titulo praedicto promoverat, sive eorumdem decora sustentationi.

"Can. 575 - Conventionibus cum praelatura initis laici operibus apostolicis praelatura personalis sese dedicare possunt: modus vero huius incorporationis atque praecipua officia et iura ex illa porvenientia in statutis apte determinantur.

"Can. 576 - Statuta pariter definiant rationes praelaturae personalis cum Ordinariis locorum, in quorum Ecclesiis particularibus ipsa praelatura sua opera pastoralia vel missionalia, praevio consensu Episcopi dioecesani, exercet vel exercere desiderat."

the 1982 schema incorporates all of the key elements on personal prelatures found in Ecclesiae Sanctae except for one. Both documents talk about a prelature consisting of clergy for missionary work, special pastoral work and for the distribution of clergy. They both bring out the importance of the statutes in the governance of the prelature under the direction of the prelate. This prelate can erect seminaries, train seminarians and incardinate them into the prelature. Both Ecclesiae Sanctae and the 1982 text mention the possibility of allowing lay people to dedicate themselves to the work of the prelature. This is to be determined according to the statutes.

However, one area of discrepancy was in the insertion of the personal prelature into the local church. Ecclesiae Sanctae stressed the necessity of consulting the episcopal conference in whose territory the prelature was to work. The 1982 schema states only that the statutes are to define the relation between the personal prelature and the local ordinary. No reference is made to the episcopal conference.

Another point of importance is the placement of the canons within the total schema. These four canons in the 1982 schema shed light on our four questions as follows:

1. What is a personal prelature? These canons in the 1982 schema are still located in Part II, section 11 on particular churches and their groupings. At least in regards to the structure and placement of the canons, there remains, a certain likening of personal prelatures to particular churches.

2. Who can belong to a personal prelature? It is clear from canon 573 that a personal prelature consists of a prelate, priests and deacons of the secular clergy. However, canon 575 brings up the relationship of the laity with the personal prelature. Lay people can dedicate themselves to the apostolic work of the personal prelature on an agreement or contract basis. This relationship of the lay person with the personal prelature is referred to as incorporation. We shall look at the possible meaning of this term later in this chapter.

3. Who are the external and internal authorities of a personal prelature? Canon 573 names the Apostolic See as the competent authority to erect a personal prelature. As we have seen in previous documents, the competency for this belongs to the Congregation for Bishops. Another external authority is the diocesan bishop who must give his consent before a personal prelature exercises pastoral or missionary work in his diocese.

The internal authority would be the prelate who presides over the personal prelature as proper ordinary. The statutes would circumscribe the authority of the prelate in the governance of the prelature as well as the governance structures of the prelature. The statutes are to be approved by the Apostolic See. They are to define the relations of the personal prelature with the local ordinary. They also are to determine the relationship of laity to the prelature.

4. What is the relationship of the personal prelature with the local and universal Church? The personal prelature is to be

of service to the universal Church in the needs of the distribution of clergy and the promotion of special pastoral or missionary work. Also of importance is the relationship of the personal prelature with the particular churches in whose territory the prelature desires to exercise its pastoral or missionary work.

These four canons in the 1982 schema passed on to the final form of the revised code with only a few changes.

PERSONAL PRELATURES IN THE 1983 CODE

One of the notable changes in personal prelatures from the 1982 schema is the location of personal prelature in the 1983 code. Personal prelatures were changed from being considered in Title IV of the section De ecclesiis particularibus de quibus earundem coetibus in Part II, De ecclesiis constitutione hierarchica to Title IV of Part I, De christifidelibus, preceding the norms on associations of the faithful. This final placement in the code brings out two important points.

1. The new personal prelatures are not to be considered particular churches. Canon 368 defines a particular church principally as a diocese. Also likened to dioceses are territorial abbacies, apostolic vicariates, apostolic prefectures, and apostolic administrations.⁹⁶ All of these particular churches are identified as consisting of a "portion of the People of God." While headed by a prelate, a personal prelature does not include a portion of the people of God, which particular churches do;

⁹⁶Codex Iuris Canonici (Romae: Libreria Editrice Vaticana, 1983), c. 368.

therefore it lacks an essential element of a particular church.

2. The new personal prelature is not an institute of consecrated life or an association of the Christian faithful. While closer to an association of the faithful insofar as comparable legal structures are concerned, a personal prelature is not dealt with in the same canons as these associations.⁹⁷ No rationale has been given for this, but perhaps the special canonical provisions for personal prelatures, such as the role of the prelate and incardination of clergy, are the reason. Associations of the faithful do not have these elements ordinarily. Let us now examine the text of the canons on personal prelatures in the 1983 Code of Canon Law.

Canon 294 - The Erection of a Personal Prelature

Can. 294 - Personal Prelatures which consist of presbyters and deacons of the secular clergy can be erected by the Apostolic See, after consulting the conferences of bishops involved, in order to promote an appropriate distribution of presbyters or to perform particular pastoral or missionary works for various regions or different social groups.⁹⁸

This canon indicates the reason for the erection of a personal prelature: the promotion of a better distribution of clergy and the special needs of pastoral or missionary work. Only the

⁹⁷ Rodríguez and Fuenmayor, p. 22.

⁹⁸ 1983 Code, c. 294:

"Ad aptam presbyterorum distributionem promovendam aut ad peculiaris opera pastoralia vel missionaria pro variis regionibus aut diversis coetibus socialibus perficienda, praelaturae personales quae presbyteris et diaconis cleri saecularis constant, ab Apostolica Sede, auditis quarum interest Episcoporum conferentiis, erigi possunt."

Apostolic See is competent to erect a personal prelature, but since the prelature must be inserted in the local community where the personal prelature would carry on its work, the canon prescribes a consultation with the episcopal conferences involved.⁹⁹ This consultation with the episcopal conference was added to the text of canon 573 of the 1982 schema.

Canon 295 - The Governance of a Personal Prelature

Can.295, §1. A personal prelature is governed by the statutes established by the Apostolic See, and it is presided over by a prelate as its proper ordinary, who has the right to erect a national or international seminary, to incardinate the students, and to promote them to orders under the title of service to the prelature.

§2. The prelate must see to the spiritual formation and to the decent support of those whom he has promoted by the above-mentioned title.¹⁰⁰

This canon clarifies the governance of personal prelatures summarized as follows:

1. The internal governance of the personal prelature is formulated in the statutes of the prelature. Given the possible variety of personal prelatures established under these canons, it is prescribed that each prelature have its proper statutes, sanctioned by the Apostolic See, which should regulate the internal

⁹⁹Pedro Lombardía and Juan Ignacio Arrieta. Código de Derecho Canónico: Edición Anotada (Pamplona: EUNSA, 1983), p. 227.

¹⁰⁰1983 c. 295:

"§1. Praelatura personalis regitur statutis ab Apostolica Sede conditis, aique praeficitur Praelatus ut Ordinarius proprius, cuius est nationale vel internationale seminarium erigere necnon alumnos incardinare, eosque titulo servitii praelaturae ad ordines promovere.

"§2. Praelatus prospicere debet sive spirituali institutioni illorum, quos titulo praedicto promoverat sive eorundem decorae

governance of the prelature, the prelature's specific activity and its relation with the local ordinary.¹⁰¹

2. The prelature is headed by a prelate, who is its proper ordinary and whose power of governance¹⁰² is ordinary, not delegated by some other ecclesiastical authority.¹⁰³ In other words, this is an autonomous jurisdiction whose only ecclesiastical superior is the Apostolic See.

The personal prelature, under the governance of the prelate, does not have a proper portio Populi Dei. If it did, it would be equivalent to a particular church. This was not the original intent of the council and, in spite of the confusion that existed in this regard throughout the various stages of development of the canons in personal prelatures, this is not the understanding of the code.¹⁰⁴

3. A prelate can be done in designated in different ways according to the particular configuration of the prelature. The prelate can be directly appointed or the legitimately elected prelate can be confirmed by the Roman Pontiff.¹⁰⁵

¹⁰¹ Lombardía and Arrieta, p. 227.

¹⁰² 1983 Code, c. 129.

¹⁰³ 1983 Code, c. 131, §1.

¹⁰⁴ Lamberto de Echeverría. Código de Derecho Canónico: Edición Bilingüe Comentada (Madrid: BAC. 1983), p. 176.

¹⁰⁵ 1983 Code, c. 377, §1.

The latter was the case with Opus Dei: Alvaro del Portillo, elected President General of Opus Dei by the General Congress, was confirmed as prelate by John Paul II on November 28, 1982 when Opus Dei was erected as a personal prelature.

4. Canon 295, §1 states some rights or faculties of the prelate: to erect a seminary (international or national) according to the scope of the prelature; to incardinate its students; to promote them to sacred orders with the title of service to this same prelature.

Finally, canon 295, §2 mentions some obligations of the prelate. A necessary part of the prelate's responsibility is the spiritual formation and sustenance of the clerics dedicated to the ministry and specific pastoral work of the prelature.

Canon 296 - Cooperation of the Laity

Can. 296 - Lay persons can dedicate themselves to the apostolic works of a personal prelature by agreements entered with the prelature; the mode of this organic cooperation with it shall be appropriately determined by the statutes.¹⁰⁶

This canon points out that personal prelatures, consisting of secular clerics, can nonetheless count on lay persons who dedicate themselves to the service of the apostolic activity of the prelature. This "organic cooperation" of the laity is "a free participation on the part of the faithful lay person, man or woman, celibate or married."¹⁰⁷ This cooperation, to be determined in each case by the statutes, presupposes an agreement or contract between

¹⁰⁶ 1983 Code, c. 296:

"Conventionibus cum praelatura initis, laici operibus apostolicis praelaturae personalis sese dedicare possunt: modus vero huius organicae cooperationis atque praecipua officia et iura cum illa coniuncta in statutis apte determinentur."

¹⁰⁷ Marcuzzi, p. 136: "una libera partecipazione da parte dei fedeli laici, uomini o donne, celibi o sposati. . . ."

the lay person and the prelature.¹⁰⁸

To clarify the relationship of lay persons it is necessary to analyze the shift in description of how lay persons are related to the prelature in the 1982 and 1983 versions of this canon. In canon 573 of the 1982 schema the term used for the relationship of lay persons to the prelature was incorporation. In the promulgated version of the code in 1983 canon 296 uses the term organic cooperation. Why the change?

The word "incorporationis" has a technical meaning. It is often found in the canons on religious institutes, secular institutes, and societies of apostolic life. In canon 587, §1 incorporation is used to indicate that a person becomes a full member of an institute of consecrated life. Canon 723 speaks of the incorporation of persons into a secular institute by which certain juridic effects take place. These juridic effects deal with the rights and obligations of the incorporated member.¹⁰⁹

The term organic cooperation as found in canon 296 of the 1983 code is a unique usage in the code. It indicates that the lay person cooperates in the integral activities of the personal prelature. The lay person could also cooperate in the inner organization of the personal prelature. However, the fact that the

¹⁰⁸Jose Luis Gutierrez, "De Praelatura Personali Iuxta Leges Eius Constitutivas et Codicis Iuris Canonici Normas," Periodica 72 (1983): 107. In regard to the agreement or contract entered into, see c. 1290 concerning contracts; c. 98, §1 concerning age; cc. 124 to 126 concerning the validity of juridic acts.

¹⁰⁹See c. 1290.

term was changed from "incorporationis" to "organicae cooperationis" indicates that in a personal prelature the lay person can cooperate in the work and duties of the clerics who belong to the personal prelature, but the lay person does not become a full member of the personal prelature in the same way as a cleric.

When a lay person dedicates himself or herself in organic cooperation to the apostolic activities of a personal prelature by means of an agreement or contracts¹¹⁰ his or her rights and obligations must be determined in the proper statutes of the personal prelature. The statutes should circumscribe the manner of organic cooperation, the extent and intensity of the person's commitment, and the length of the commitment.¹¹¹

This agreement or contract refers only to the lay person's involvement with the work of the prelature and the scope of competence of the prelate. The ordinary pastoral care of this lay person continues to belong to the diocesan bishop. The lay member of the personal prelature must observe the particular legislation set down by the diocesan bishop for all those living within his territory especially in matters that deal with the coordination of pastoral work, matters of public worship, clerical discipline, and public order. The jurisdictional structure of the diocese is not

¹¹⁰Canon 296.

¹¹¹Lombardia and Arrieta, p. 228.

replaced by the personal prelature.¹¹²

Canon 297 - Insertion of Personal Prelatures in the Diocese

Can. 297 - The statutes shall likewise define the relations of the personal prelature with the local ordinaries in whose particular churches the prelature itself exercises or desires to exercise its pastoral or missionary works, with the prior consent of the diocesan bishop.¹¹³

This canon demands particular attention because of the possible conflicts that might arise. This is especially true because there are no details in the law to indicate how canon 297 is supposed to work in practice. The statutes of the personal prelature are not intended to supplant the particular church. The personal prelature is to live and grow within a local church which the prelature is to serve, with the greatest of respect to the jurisdiction and competence of the diocesan bishop. The bishop is not subject to the personal prelature statutes, so the relationship must be based on general canon law and not just on the statutes. In keeping with canon 17, it is appropriate to have recourse to parallel passages.

One example of such parallel passages are the canons on the relationship of religious to dioceses.¹¹⁴ It may be helpful to

¹¹² José M. Gonzalez del Valle, "Zur neuen Rechtsfigur der Personalprälaturen." Osterreichisches Archiv für Kirchenrecht, 34 (1983/84) 137.

¹¹³ 1983 Code, c. 297:
"Statuta pariter definiant rationes praelaturae personalis cum Ordinariis locorum, in quorum Ecclesiis particularibus ipsa praelatura sua opera pastoralia vel missionalia, praevio consensu Episcopi dioecesanī, exercet vel exercere desiderat."

¹¹⁴ Canons 609 and 611.

explore these canons to see what principles might be operative. This would be helpful in explaining the relationship of a personal prelature to a diocese, even though a personal prelature is not a religious institute.

1. Presence in the diocese: a religious institute can erect a house only with the permission of the local ordinary. The bishop can also order individuals to leave the diocese for a very serious reason.¹¹⁵

2. Engaging in the apostolate in the diocese: If a bishop gives a religious institute permission to erect a house in his diocese and does not otherwise restrict this permission, the religious can do all the works proper to the institute.¹¹⁶ They are to coordinate their works with the bishop, who has the ultimate supervisory authority over all the apostolic activities in the diocese. The bishop has the right to visit schools, other works, etc.¹¹⁷

3. Involvement of individuals in diocesan offices: Contracts are to regulate the relationship between religious institutes and the bishop relative to works undertaken by the institute or by individual members of it, on behalf of the diocese.¹¹⁸ Appointment to and removal from office are covered by special provisions.

¹¹⁵ Canons 609 and 679.

¹¹⁶ Canon 611.

¹¹⁷ Canon 683.

¹¹⁸ Canon 681, §2.

4. Internal autonomy: a bishop cannot intervene in the inner workings of a religious institute.¹¹⁹

At least by recourse to parallel passages it would seem that personal prelatures are subject to the same general principles of law in their relationship with diocesan bishops. Their statutes would be well advised to respect these same principles.

There are several questions here. Again, is the bishop subject to the statutes of the prelature? This does not seem likely since the law on statutes states that the statutes of an aggregate of persons bind only its legitimate members.¹²⁰ Must the prelature observe the provisions of its statutes in relating to diocesan bishops?¹²¹ This is apparently the case since in the parallel case of religious institutes their own "proper law" or statutes determines how they are supposed to relate to the bishops. Are personal prelatures exempt from entering into contracts with bishops? Canon 297 speaks only of the necessary consent of the bishop before a personal prelature can exercise pastoral or missionary work in his territory. However, the general law seems to encourage the use of contracts for formalizing the relationship of outside groups with the diocesan bishop.¹²²

¹¹⁹Canon 586.

¹²⁰Canon 94, §2.

¹²¹de Echeverria, p. 177.

¹²²Lombardia and Arrieta, p. 228.

A good relationship between the prelature and the diocesan bishop will avoid possible conflicts, will better utilize manpower, and can strengthen the ecclesial community gathered around the diocesan bishop. There are two key legal requirements to safeguard the rights of the diocesan bishop within his territory.

1. The relationship of a personal prelature with the respective diocesan bishop must be determined in the statutes.

2. The consent of the diocesan bishop is necessary before a prelature can exercise its activities within the territory of a local church. This is a minimal requirement before the erection of each center of the prelature within the territory of a diocesan bishop.¹²³

More can be learned of the personal prelature and its statutes in the next chapter where we will describe and evaluate the statutes of the personal prelature of Opus Dei. Up to this point we have seen the development of the personal prelature through the conciliar and post-conciliar texts, the various drafts of the code, and finally in the promulgated version of the 1983 Code of Canon Law. The current Code on personal prelatures responds as follows to our four areas of questions:

1. What is a personal prelature? A personal prelature, is a new structure erected by the Apostolic See in order to promote the better distribution of clergy and to perform particular pastoral or missionary work. It is distinct from a particular

¹²³ Canon 297.

church. It is not an institute of consecrated life. It is not merely an association of the faithful.

2. Who can belong to a personal prelature? A personal prelature is composed of a prelate and secular clerics. Lay people can "organically cooperate" with the apostolic work of the personal prelature by means of an agreement or contract.

3. What are the internal and external authorities of a personal prelature? The internal authorities of the personal prelature are the prelate as proper ordinary and the statutes of the prelature. The statutes determine the manner of governance within the prelature. The external authorities are the Apostolic See which can erect the prelature and approve the statutes, the episcopal conference involved which must be consulted before the erection of a personal prelature within the conference's territory, and the diocesan bishop who must give prior consent before a personal prelature exercises pastoral or missionary work within his territory.

4. What is the relationship of the personal prelature with the local and universal Church? A personal prelature's relationship with the universal church is that of a special structure that is of service to the needs of the universal Church. It is directly subject to the Apostolic See. A personal prelature's relationship with the local church is to serve the particular needs of the local church, the manner of which is to be determined by the statutes of the personal prelature and preferably specified in contracts with the local bishop.

CHAPTER III

OPUS DEI AS A PERSONAL PRELATURE

The Erection of Opus Dei as a Personal Prelature

On November 28, 1982 there appeared in L'Osservatore Romano the news of the erection of the "Priestly Society of the Holy Cross and Opus Dei" as the first personal prelature according to the motu proprio Ecclesiae Sanctae, I, n. 4 and the apostolic constitution Regimini Ecclesiae universae, n. 49 § 1.¹²⁴ Also mentioned in this article was the naming by Pope John Paul II of Msgr Alvaro del Portillo, until this time President General of Opus Dei, as the first prelate of the newly erected personal prelature.¹²⁵ Published in this same issue of L'Osservatore Romano were three documents: the apostolic constitution Ut sit promulgated on November 28, 1982, by which Opus Dei was erected as a personal prelature; the corresponding Decretum of execution to the prelate; and a Declaratio from the Congregation for Bishops.¹²⁶

¹²⁴"Nostre Informazioni." L'Osservatore Romano, December 6, 1982, p. 12.

¹²⁵Monsignor Alvaro del Portillo, a Spanish priest, is one of the original members of Opus Dei. He has doctorates in engineering, philosophy and canon law. He has been a collaborator in Vatican II as President of the Antepreparatory Commission on "De Laicis" and Secretary of the Conciliar Commission on "De disciplina cleri et populi christiani." He was also a consultant to the Pontifical Commission for the Revision of the Code of Canon Law.

¹²⁶AAS 75 (1983) 464-468.
"Declarationem hanc de erecta Praelatura 'Sanctus Crucis et Operis Dei' Summus Pontifex Ioannes Paulus divina Providentia Pp. II, in audientia concessa infrascripto Praefecto Sacrae Congregationis pro Episcopis, d. 5m. augusti a. 1982, ratam habuit, confirmavit atque evulgari iussit." This "Declaratio" was later published in AAS as

The Declaratio, dated August 23, 1982,¹²⁷ but approved by the Pope on August 5, 1982, is an authentic interpretation of the proper law of the new personal prelature, sanctioned by the Holy See. The Declaratio, consisting of 8 norms, indicates briefly the decision by the Holy Father to erect Opus Dei as a personal prelature and expounds the principal characteristics of Opus Dei.

The first point that the Declaratio¹²⁸ treated was the organization of Opus Dei (Norm I). The prelature of Opus Dei has an international character. It is composed of lay members and incardinated clerics. The lay members are committed to the prelature by means of a contract, not vows. The clerics who are incardinated are called to orders from among those lay members committed to the prelature.

Secularity is a major characteristic of Opus Dei as seen in its membership and its philosophy (Norm II). The clerics incardinated into Opus Dei consider themselves secular clerics in lifestyle and vocation. The secularity of the lay members is stressed as they are called to sanctify their ordinary work. Therefore, the lay members of Opus Dei, in addition to the benefits they derive from the spirituality of Opus Dei, also enjoy the same freedoms as other Catholics.

cited above and in L'Osservatore Romano, January 17, 1983, p. 8.

¹²⁷ L'Osservatore Romano, January 17, 1983, pp. 8-9.

¹²⁸ AAS 75 (1983) 423-425.

The prelate of Opus Dei is the ordinary of the prelature with the appropriate jurisdiction (Norm III). He enjoys ordinary power in what pertains to the purposes of Opus Dei. The scope of his jurisdiction entails the general direction and formation of the members, the formation and support of the clerics incardinated into the prelature and jurisdiction over lay members in regard to ascetical, spiritual and apostolic commitments.

One of the more important issues to be dealt with is the relationship of Opus Dei with the local ordinary (Norm IV). Those governing Opus Dei, as well as the lay members, are obligated to observe the norms of the diocesan bishop concerning all directives of a doctrinal, liturgical and pastoral nature. The incardinated clerics of Opus Dei must obtain ministerial faculties from the competent local authority. The lay members of Opus Dei are under the jurisdiction of the diocesan bishop.

As part of this relationship of Opus Dei with the local ordinary, pastoral coordination of Opus Dei's activities with the local ordinary must be carefully examined and Opus Dei inserted within the local church (Norm V). Prior permission from the diocesan bishop must be obtained before the erection of each center of the prelature. In regards to each ecclesiastical office, an agreement must be drawn up between Opus Dei and the diocesan bishop. Opus Dei is to maintain contact with the episcopal conference.

The Sacerdotal Society of the Holy Cross is also part of Opus Dei (Norm VI). This is an association of diocesan clergy which is

inseparably united to the prelature. These priests do not form part of the clergy of Opus Dei. However, while remaining under the jurisdiction of their own ordinary, they choose to sanctify their ministry in accordance with the spirituality of Opus Dei.

The prelature of Opus Dei is now under the jurisdiction of the Congregation for Bishops (Norm VII).¹²⁹ Opus Dei is also entitled to deal directly with other dicasteries of the Roman Curia according to the nature of the matter involved. Through the Congregation for Bishops, the prelate will present to the Roman Pontiff every five years a detailed report of the state of the prelature, and the development of its specific apostolate, from both the juridical and the pastoral points of view (Norm VIII).¹³⁰

While the Declaratio was the authentic interpretation of the proper law of Opus Dei, the apostolic constitution Ut sit explained why the Holy See saw fit to erect Opus Dei as a personal prelature. "Since Opus Dei had grown. . . as an institution gifted with a unity of spirit, ends, governance and formation, it was necessary to confer on it a juridic configuration which is suited

¹²⁹Ibid., p. 424. "Praelatura a Sacra Congregatione pro Episcopis dependit et pro rei diversitate quaestiones pertractabit cum ceteris Romanae Curiae Dicasteriis."

¹³⁰Ibid., "Praelatus singulis quinquenniis per Sacram Congregationem pro Episcopis relationem Romano Pontifici exhibebit de Praelaturae statu deque modo quo eius apostolatus procedit."

to its specific characteristics."¹³¹ Ut sit, consisting of 7 articles, goes on to say that from the time of Vatican II's suggestion of adding the idea of a prelature into the legislation of the Church, it was seen clearly that this juridical figure was perfectly suited to Opus Dei.

Ut sit in article 1 established that "Opus Dei is erected as a personal prelature..."¹³² For a closer look at Opus Dei we will analyze the statutes of Opus Dei which were approved by the Holy See.

THE STATUTES OF OPUS DEI¹³³

The particular law of Opus Dei consists of 185 norms divided into the following areas: the nature and end of the prelature and its members; the presbyters of the prelature and the priestly society of the Holy Cross; the life, education and apostolate of the members of the prelature; the governance of the prelature; and the stability and force of the statutes. The statutes are foundational to the prelature of Opus Dei and all changes are

¹³¹ Ibid., p. 423, "Cum Opus Dei divina opitulante gratia adeo crevisset...eratque simul organica et indivisa, una scilicet spiritu fine regimine et spirituali institutione, necesse fuit aptam formam iuridicam ipsi tribui quae peculiaribus eius notis responderet."

¹³² Ibid., p. 424, "Opus Dei in Praelaturam personalem ambitus internationales eregitur..."

¹³³ Codex Iuris Particularis seu Statuta Praelaturae Sanctae Crucis et Operis Dei, Concordat cum Originali in Archivo Sacrae Congregationis Pro Episcopis Servatis (Romae, 28 Novembris 1982). (Hereafter cited as Statuta).

reserved to the Holy See.¹³⁴ The prelate with a deliberate vote of the council is the one who interprets the statutes and directs their interpretation, application and implementation.¹³⁵

Nature

The nature of Opus Dei is not defined, as such. However, in light of the issues reviewed in the previous material cited, it is presented as being composed of a prelate, priests and people.¹³⁶ The 1983 code clearly states that a prelature consist of prelate and clergy. This is a position that is in keeping with the earlier motivation for this structure. Opus Dei was erected as a personal prelature prior to the finalization of the 1983 code. The provisions in the Opus Dei statutes reflect the earlier drafts of the code. They are, however, not in keeping with the final understanding of personal prelature as found in the 1983 code.

Are the statutes of Opus Dei, then, contra legem? Or are they

¹³⁴Statuta, n. 181:

"§1. Hic Codex fundamentum est Praelaturae Operis Dei Ideo sanctae eius normae habeantur, inviolabiles, perpetuae, unigue Sactae Sedi reservatae tam quoad mutationem quam quoad novorum praeceptorum inductionem."

¹³⁵Statuta, n. 184:

"Praelati cum voto deliberativo sui Consilii est illa omnia definire quae ad practicam huius Codicis interpretationem, applicationem et adimplationem spectant."

¹³⁶Statuta, n. 181, §2.

"§1. Opus Dei est Praelatura personalis clericos et laicos simul complectens, ad peculiarem operam pastorem perficiendam sub regimine proprii Praelati (cfr. n. 125).

"§2. Praelaturae presbyterium constituunt illi clerici qui ex eiusdem fidelibus laicis ad Ordines promoventur et eidem incardinantur: laicatus Praelaturae ab iis fidelibus efformatur qui, vocatione divina moti, vinculo iuridico incorporationis specialiter Praelaturae devincuntur."

praeter legem? The statutes of Opus Dei appear to be apart from the law (praeter legem) and not contrary to the law. Canon 20 of the 1983 Code of Canon Law states that "a universal law in no way derogates from a particular or special law unless the law itself expressly provides otherwise."¹³⁷ The statutes of Opus Dei are the particular legislation for Opus Dei as approved by the competent authority. If the code were to cancel or modify the statutes of Opus Dei, the code would have to state so in unmistakeable terms.

Purpose

The purpose for Opus Dei is found in its statutes. The purpose of the prelature can be identified as sanctification, evangelization, the work of justice and education.

The members of Opus Dei, according to the norms of this particular law, are to strive to sanctify their lives according to their profession and state of life. Sanctification of its members must be marked with that special note of secularity in the spirituality proper to the prelature.

The spirit and ascetical practice proper to the prelature have specific characteristics in keeping with the proper ends of the prelature. The necessary elements of this spirituality are identified as asceticism, apostolicity, as well as social and

¹³⁷Canon 20: "Lex posterior abrogat priorem aut eidem derogat, si id expresse edicat aut illi sit directe contraria, aut totam de integro ordinat legis prioris materiam: sed lex universalis minime derogat iuri particulari aut speciali, nisi aliud in iure expresse caveatur."

professional elements.¹³⁸ The foundation of this spiritual life is to be a sense of humble and sincere divine filiation in Christ Jesus so that one might order one's life to fulfill the will of God.¹³⁹

At the center of the spiritual life is the Sacrifice of the Mass and Eucharistic devotion.¹⁴⁰ To foster a spirit of contemplation within their work, members must also spend half an

¹³⁸ Statuta, n. 79, §1:

"§1. Spiritus et praxis ascetica propria Praelaturae específicos characteres habent, plene determinatos, ad finem proprium prosequendum. Unde spiritus Operis Dei aspectus duplex, asceticus et apostolicus, ita sibi adaequate respondet, ac cum characterē saeculari Operis Dei intrinsece et harmonice fusus ac compenetratus est, ut solidam ac simplicem vitae - asceticae, apostolicae, socialis et professionalis - unitatem necessario secum ferre ac inducere semper debeat."

¹³⁹ Statuta, n. 80

"§1. Fundamentum solidum, quo omnia in Opere Dei constant, radixque fecunda singula vivificans, est sensus humilis ac sincerus filiationis divinae in Christo Iesu, ex quo dulciter creditur caritati paternae quam habet Deus in nobis; et Christus Dominus. Deus homo, ut frater primogenitus ineffabili sua bonitate sentitur a Praelaturae fidelibus, qui Spiritus Sancti gratia Iesum imitari conantur, in memoriam praesertim revocantes mirum exemplum et fecunditatem operosae eius vitae in Nazareth.

"§2. Hac ratione, in vita fidelium Praelaturae, qui sicut ceteri clerici saeculares et laici, sibi aequales, in omnibus se gerunt, nascitur necessitas et veluti instinctus supernaturalis omnia purificandi, elevandi ad ordinem gratiae, sanctificandi et convertendi in occasionem personalis unionis cum Deo, cuius Voluntas adimpletur, et in instrumentum apostolatus."

¹⁴⁰ Statuta, n. 81:

"§1. Vitae spiritualis fidelium Praelaturae radix ac centrum Sacrosanctum Missae est Sacrificium, quo Passio et Mors Christi Iesu incruente renovatur et memoria recolitur infiniti eius amoris salvifici erga universos homines.

"§2. Omnes proinde sacerdotes Sacrosanctum Missae Sacrificium quotidie celebrent eique cuncti laici devotissime assistant, Corporis Christi Dapem sacramentaliter vel spiritualiter saltem participant. Praeterea Christum in SS. Sacramento alio diei

hour on rising in mental prayer, half an hour in evening prayer, some time devoted to readings from the New Testament or other spiritual reading, and recite the common prayer of Opus Dei. Each month they must dedicate one day in recollection; each year they must spend a longer period making a retreat; always and everywhere they are to be mindful of the presence of God, of divine filiation, of giving thanks, acts of expiation, etc.¹⁴¹

Christian asceticism is demanded of all members that they might deal with concupiscence. Among those things that might be helpful in dealing with concupiscence are one's work, self-denial, sobriety, sacrificial acts, exercises of mortification (even corporal), as well as other.¹⁴²

¹⁴¹ Statuta, n. 82:

"Exemplum imitantes Apostolorum, qui erant perseverantes unanimiter in oratione, atque communitatum primaeavorum christianorum, Praelaturae fideles, dum ordinariis vitae ac laboris quotidiani vicissitudinibus se sedicant, continuam suae animae contemplativae unionem et conversationem cum Deo curare debent. Ad hunc finem necessario custodiendum ac fovendum:

"1' singulis diebus, mane, post oblationem suorum operum Deo factam, orationi mentali spatio semihorae vacabunt; vespere autem aliam semihoram orationi dedicabunt. Praeterea lectioni Novi Testamenti et alterius libri spiritualis per aliquot temporis spatium vacent, et Preces communes Operis Dei recitent;

"2' singulis mensibus spirituali recessui unam dedicent diem;

"3' singulis annis longiori per aliquot dies recessui spirituali vacent;

"4' semper et ubique recolant Dei praesentiam; meminerint filiationis divinae; communionem spirituales iterent; item gratiarum actiones, actus expiationis, orationes iaculatorias, foveant impensius mortificationem, studium, laborem, ordinem, gaudium."

¹⁴² Statuta, n. 83:

"§1. Ut insidiae vincantur triplicis concupiscentiae, superbiae vitae speciatim, quae ex doctrina, ex condicione sociali et ex professionalibus laboribus ali posset, ascetismi christiani exigentiae a Praelaturae fidelibus firmiter et impense colendae

The members are to work for evangelization. Evangelization is identified as working for an integral, that is, intellectual adherence to the precepts of Christ by all persons in civil society, and especially by intellectuals. The prelature is to give the necessary formation and pastoral assistance so that the members can carry out the rights and duties that belong to all Christians of exercising this apostolate.¹⁴³ As part of this apostolate of evangelization, members are to give witness by their lives. They have the obligation to talk about God to the people with whom they work and live.¹⁴⁴

sunt. Hic ascetismus nititur fideli ac perpetuo sensu humilitatis externae et intrinsecae, non tantum individualis sed etiam collectivae; candore connaturalis simplicitatis; familiari et nobili agendi ratione; expressione iugis serenae laetitiae, labore, sui abnegatione, sobrietate, actibus sacrificii atque statutis exercitiis mortificationis etiam corporalis singulis diebus et hebdomadis peragendis, iuxta uniuscuiusque aetatem et condicionem. Haec omnia curantur ut media non solum purificationis personalis, sed praeterea veri ac solidi progressus spiritalis, iuxta illud bene probatum et comprobatum verbum: "tantum proficies quantum tibi ipsi vim intuleris". Curantur etiam ut necessaria praeparatio ad omnem apostolatatum in societate peragendum eiusque perfectum exercitium: "adimpleo ea quae desunt passionum Christi in carne mea pro corpore eius, quod est Ecclesia" (Col. I, 24).

"§2. Hic ascetismus et spiritus paenitentiae alias quoque exigentias in vita fidelium Praelaturae secum fert, praesertim quotidianam conscientiae discussionem, directionem spiritualem et praxim hebdomadariam confessionis sacramentalis."

¹⁴³ Statuta, n. 110:

"Praelatura sollicitè suis fidelibus tradit congruam formationem apostolicam ac necessariam assistentiam pastorem ad impensum laborem evangelizationis et catecheseos exsequendum, ita ut in vita omnium atque singulorum constanter ad effectum deducatur officium et ius christianorum exercendi apostolatatum."

¹⁴⁴ Statuta, n. 114:

"Praeter apostolatatum testimonii atque exempli, per congruentem vitam personalem unionis cum Domino exhibit, fideles Praelaturae eniti debent ut aperto etiam sermone de Deo loquantur, veritatem cum caritate diffundentes constanti apostolatu doctrinali et

One of the purposes of the prelature is education. The members of Opus Dei (men and women) must be informed (educated) so that they might exercise the apostolate in civil society. The prelature emphasizes religious education and the formation of its members. For this end it is important to know the teaching of the Catholic faith and the ecclesiastical magisterium. This is necessary so that this knowledge might nourish apostolic life.¹⁴⁵ Therefore, in each region there should be a center of study.¹⁴⁶ All those attached to a juridically erected center are to follow a course of studies which integrates two years of philosophy and four years of theology.¹⁴⁷ All priests of the prelature must acquire a

catechetico, accommodato ad peculiaria adiuncta personarum cum quibus laborant et convivunt."

¹⁴⁵ Statuta, n. 96:

"Sub aspectu doctrinali religioso, institutio quae fidelibus Praelaturae impertitur ipsis profundam cognitionem Fidei catholicae et Magisterii ecclesiastici, alimentum quidem necessarium suae vitae spiritualis et apostolicae, praestare contendit, ut in quocumque societatis ambitu personae adsint intellectualiter praeparatae, quae, cum simplicitate, in ordinariis adiunctis quotidianae vitae atque laboris, exemplo ac verbis efficacem apostolatum evangelizationis et catecheseos exercent."

¹⁴⁶ Statuta, n. 97:

"In qualibet regionali circumscriptione a Vicario Regionali, de consensu sui Consilii et Praelato confirmante, erigantur, prout opus fuerit, Studiorum Centra pro omnibus cuiusque Regionis fidelibus, ut institutio doctrinalis religiosa impensa et assidua ad vitam spiritualem sustinendam et ad finem apostolicum Praelaturae proprium prosequendum cunctis congrue praebetur."

¹⁴⁷ Statuta, n. 101:

"§1. Omnes Numerarii, necnon illi Aggregati quorum personalia adiuncta id suadeant, integra studia biennii philosophici et quadriennii theologici peragant."

doctorate in some ecclesiastical discipline.¹⁴⁸ Each person wishing to be incorporated into the prelature must receive the necessary doctrinal formation before they can be incorporated into the prelature. After a member's incorporation, study and formation continue.¹⁴⁹

Opus Dei members enjoy the same freedom as other Catholics in regard to education, always under the care of the hierarchy.¹⁵⁰ As any member of the Christian faithful has a right and an obligation to acquire a knowledge of Christian doctrine,¹⁵¹ so it is with the members of the prelature.

As indicated in chapter two above, the purpose for personal prelatures as given in the Vatican Council and in the 1983 Code of

¹⁴⁸ *Statuta*, n. 105:

"Omnes sacerdotes Praelaturae praediti sint oportet laurea doctorali in aliqua disciplina ecclesiastica."

¹⁴⁹ *Statuta*, n. 106:

"§1. Cuncti qui Praelaturae incorporari desiderant, ex quo admissionem expostulant, formationem doctrinalem religiosam, quae praevia vocatur, recipiant necesse est antequam eisdem incorporatio concedatur."

¹⁵⁰ *Statuta*, n. 109:

"Opus Dei nullam habet propriam sententiam vel scholam corporativam in quaestionibus theologicis vel philosophicis quas Ecclesia liberae fidelium opinioni relinquit; Praelaturae fideles, intra limites statutos ab ecclesiastica Hierarchia, quae Depositum fidei custodit, eadem libertate gaudent ac ceteri fideles catholici."

¹⁵¹ 1983 Code, c. 229, §1:

"Laici, ut secundum doctrinam christianam vivere valeant, eandemque et ipsi enuntiare atque, si opus sit, defendere possint, utque in apostolatu exercendo partem suam habere queant, obligatione tenentur et iure gaudent acquirendi eiusdem doctrinae cognitionem, propriae uniuscuiusque capacitati et conditioni aptatam."

Canon Law was to promote a better distribution of clergy and to aid the special needs of pastoral or missionary work. The Statutes of Opus Dei appear to be describing something somewhat different from what was intended by the council or the code. The notions of the sanctification and evangelization described in the Statutes seem to be describing something which has traditionally come under the juridical figure of secular institutes.¹⁵²

It is also important to note that these purposes of Opus Dei as we find them in the Statutes reflect the intentions of their founder. From its beginnings, sanctification of the members in the world, personal witness, apostolic activity (evangelization) have been very much a part of the founder's vision. Escriva's intentions for Opus Dei were thus well in place before there was such a juridical figure as personal prelatures in the universal law.

¹⁵²CIC, 1983 code:

"Can. 710 - Institutum saeculare est institutum vitae consecratae, in quo christefideles in saeculo viventes ad caritatis perfectionem contendunt atque ad mundi sanctificationem praesertim ab intus conferre student.

"Can. 713 - §1. Sodales horum institutorum propriam in consecrationem in actuositate apostolica exprimunt et exercent, iidemque, ad instar fermenti, omnia spiritu evangelico imbuere satagunt ad robur et incrementum Corporis Christi.

"§2. Sodales laici, munus Ecclesiae evangelizandi, in saeculo et ex saeculo, participant sive per testimonium vitae christianae et fidelitatis erga suam consecrationem, sive per adiutricem quam praebent operam ad ordinandas secundum Deum res temporales atque ad mundum virtute Evangelii informandum. Suam etiam cooperationem, iuxta propriam vitae rationem saecularem, in communitatis ecclesialis servitium offerunt.

"§3. Sodales clerici per vitae consecratae testimonium, praesertim in presbyterio, peculiari caritate apostolica confratribus adiutorio sunt, et in populo Dei mundi sanctificationem suo sacro ministerio perficiunt."

Members

As we have seen, the members of Opus Dei are both clergy and laity. Among the laity the members are both men and woman. Each member, male or female, is incorporated into Opus Dei by means of a juridic contract.¹⁵³

There are three classes of members within the Opus Dei structure. Clergy or lay, men or women can be members of any of the three classes. The three classes of members are differentiated by life-style and by work.

The first class of members are the "numeraries." Numeraries, cleric or lay, are called to live a celibate life. They ordinarily live and work in Opus Dei Centers and dedicate their lives to the care of these centers.¹⁵⁴ These members are involved in the

¹⁵³ Statuta, n. 6:

"Cuncti christifideles qui Praelaturae incorporantur, vinculo iuridico de quo in n. 27, hoc faciunt eadem divina vocatione moti: omnes eundem finem apostolicum prosequuntur, eundem spiritum eandemque praxim asceticam colunt, congruam recipiunt doctrinalem institutionem et curam sacerdotalem atque, ad finem Praelaturae quod attinet, subsunt potestati Praelati eiusque Consiliorum, iuxta normas iuris universalis et horum Statutorum."

¹⁵⁴ Statuta:

"8, §1. Vocantur Numerarii illi clerici et laici qui, speciali motione ac dono Dei coelibatum apostolicum servantes (cfr. Matth. XIX, 11), peculiaribus inceptis apostolatus Praelaturae totis viribus maximeque ad laborandi personali disponibilitate incumbunt, et orindari commorantur in sedibus Centrorum operis Dei, ut illa apostolatus incepta curent ceterorumque Praelaturae fidelium institutioni se dedificent.

"§2. Numerariae familiarem insuper administrationem seu domesticam curam habent omnium Praelaturae Centrorum, in loco tamen penitus separato commorantes.

"9. Admitti possunt qua Numerarii ii omnes fideles laici qui plena gaudeant disponibilitate ad incumbendum officiis formationis atque laboribus apostolicis peculiaribus Operis Dei, quique, cum admissionem expostulant, ordinario praediti sunt titulo academico vel saltem post admissionem

internal operations of Opus Dei. They are especially dedicated to the governance and formation of the other members.

The second class of members are the "associates." Associates are members who, while embracing celibacy, ordinarily live at home with their families while working in the world. They work in the internal operations of Opus Dei performing apostolic duties and formation.¹⁵⁵

The third class of members are the "supernumeraries." Supernumeraries are those members, celibate or married, who participate fully in the specific apostolate of Opus Dei of living and working in the world.¹⁵⁶

illum obtinere valeant. Praeterea, in Sectione, mulierum, Numerariae Auxiliares, eadem disponibilitate ac ceterae Numerariae, vitam suam praecipue dedicant laboribus manualibus vel officiis domesticis, quae tamquam proprium laborem professionalem voluntarie suscipiunt, in sedibus Centrorum Operis.

"13. Numerarii specialiter dicati numeribus regiminis vel formationis residere debent in sede Centrorum quae ad hunc finem destinantur."

¹⁵⁵ Statuta, n. 10:

"§1. Vocantur Aggregati illi fideles laici qui vitam suam plene Domino tradentes in coelibatu apostolico et iuxta spiritum Operis Dei, curam tamen impendere debent in sua concretas ac permanentes necessitates personales, familiares vel profesionales, quae eos ordinario docunt ad commorandum cum propria ipsorum familia. Haec omnia determinant simul eorum dedicationem aliquibus officiis apostolatus vel formationis Operis Dei perficiendis."

¹⁵⁶ Statuta, n. 11.

"§1. Vocantur Supernumerarii ii omnes fideles laici, coelibes et etiam coniugati, qui, eadem vocatione, divina ac Numerarii et Aggregati, peculiarem apostolatum Operis Dei plene participant, ea quidem disponibilitate quoad incepta apostolica, quae sit compatibilis cum adimplerione suarum obligationum familiarum, professionalium ac socialium; quique non solum suam vitam suamque professionem convertunt, sicut et ceteri alii Praelaturae christifideles, in medium sanctificationis et apostolatus, verum etiam, non aliter ac Aggregati, propriam domum propriasque familiares occupationes."

There are three levels of entrance into Opus Dei: simple admission, temporary incorporation at least one year from the time of admission, and definitive incorporation after at least five years have passed from the time of temporary admission.¹⁵⁷ Each member must request admission in writing to the competent authority of the prelature manifesting the desire to be admitted as a numerary, associate or supernumerary.¹⁵⁸ In order for the admission to be valid, the candidate must be at least 17 years of age and endowed with Christian virtue according to the spirit and ascetical practices proper to Opus Dei. Moreover, the person must frequently receive the Eucharist and penance, and be devoted to the exercise of daily prayer. The applicant must also exercise the specific apostolate of Opus Dei under a competent authority for at least six months and possess other outstanding qualities. Members of religious institutes, seminarians or priests incardinated into a

"§2. Supernumerarii de eodem spiritu vivunt, et pro viribus easdem servant consuetudines ac Numerarii et Aggregati."

¹⁵⁷ Statuta, n. 17:

"Adscriptio tres gradus comprehendit: simplicis Admissionis, quam facit Vicarius Regionalis, audita sua Commissione; incorporationis temporaneae, quae Oblatio dicitur, post annum saltem ab Admissionem; incorporationis definitivae seu Fidelitatis, post quinquennium saltem ab incorporatione temporanea transactum."

¹⁵⁸ Statuta, n. 19:

"Candidatus expostulare tenetur suam admissionem mediantibus litteris ad competentem Praelaturae Ordinarium inscribendis, in quibus manifestet suum desiderium ad Opus Dei pertinendi qua Numerarius, Aggregatus vel Supernumerarius."

diocese are not to be admitted.¹⁵⁹

A desire to be incorporated into Opus Dei, whether temporary or definitive, must be freely expressed by the candidate. An applicant is incorporated by the regional vicar with the deliberative vote of his council. If it is to be definitive incorporation, the Prelate must give his confirmation.¹⁶⁰

There is a difference between lay members and clergy in their relationship with the prelature. As we have seen, lay members are incorporated. Clergy can also be incardinated into the

¹⁵⁹ Statuta, n. 20:

"§1. Ut quis possit ad Praelaturam admitti requiritur:

"1. ut aetatem saltem decem et septem annorum

"2. ut in sanctificationem personalem in cumbat, enixe colendo virtutes christianas, iuxta spiritum et praxim asceticam quae Operis Dei sunt propriae:

"3. ut vitae spirituali prospiciat, per frequentem receptionem Sacramentorum SS. Eucharistiae et Paenitentiae et per exercitium orationis mentalis quotidianae aliarumque normarum pietatis Operis Dei:

"4. ut antea in apostolatu peculiari Operis Dei, per dimidium saltem annum, sub ductu auctoritatis competentis sese exercuerit; nihil obstat quominus candidatus iam prius per aliquot tempus ut adspirans habeatur, quin tamen ad Praelaturam adhuc pertineat;

"5. ut ceteris qualitatibus personalibus sit praeditus, quibus experimentum praebet se recepisse vocationem ad Opus Dei.

"§2. Ad Opere Dei arcentur qui alicuius Instituti religiosi vel Societatis vitae communis fuerit sodalis, novitius, postulans vel alumnus scholae apostolicae; et qui in aliquo Instituto saeculari qua probandus degerit vel admissionem expostulaverit.

"§3. Praeterea, ne dioeceses priventur propriis vocationibus sacerdotalibus, ad Praelaturam non admittuntur alumni Seminariorum, sive laici sive clerici, neque sacerdotes alicui dioecesi incardinati."

¹⁶⁰ Statuta, n. 23:

"Incorporatio, tum temporanea tum definitiva, requirit praeter liberam et expressam candidati voluntatem, opportunam concessionem Vicarii Regionalis cum voto deliberativo sui Consilii; si vero de incorporatione definitiva agatur, necessaria est insuper Praelati confirmatio."

prelature.¹⁶¹ Priests of Opus Dei are promoted from the incorporated membership of the prelature and incardinated to the service of the prelature according to the norms of Ut sit. To be ordained, a member must be a numerary or associate of Opus Dei having completed the required period of formation.¹⁶² He must be called to orders by the prelate. A lay member may ask to be allowed to study for the priesthood, but must abide by the prelate's decision.¹⁶³

It is also important to remember the shift in description of how lay persons are related to the prelature from the 1982 to the 1983 versions of this canon.¹⁶⁴ In canon 573 of the 1982 schema the term used for the relationship of lay persons to the prelature is incorporation. There was no question that lay members were

¹⁶¹ Incardination is the affiliation of a cleric by means of a permanent bond to a diocese, religious community, or personal prelature. Incardination also assures the cleric of permanent employment and sustenance in the ministry.

¹⁶² Statuta, n. 37:
 "§1. Ut quis sacros Ordines recipere valeat in servitium Praelaturae, requiritur ut sit eidem definitive incorporatus qua Numerarius vel Aggregatus, atque ut periodum formationis compleverit, quam omnes laici Numerarii, necnon Aggregati illi qui ad sacerdotium destinantur perficere tenentur, ita ut nemini immediate in Praelatura qua sacerdos Numerarius vel respective Aggregatus Operis Dei incardinari liceat."

¹⁶³ Statuta, n. 44:
 "Illi tantum Numerarii et Aggregati Operis Dei ad sacros Ordines promoveantur, quos praelatus vocatione ad sacerdotium ministeriale praeditos noverit et Operi Dei eiusque ministeriis necessarios vel congruentes iudicaverit. Qui autem Ordines appetere exoptant, desiderium suum Praelato exponere possunt, sed eius decisioni acquiescere debent."

¹⁶⁴ See 1982 schema, § 573 and 1983 Code c. 296.

fully incorporated into the prelature. Because of the usage of this term in other areas of the law it was evident that a lay member was an integral part and a full member of the prelature.¹⁶⁵ In the promulgated version of the code, canon 296 has changed the term to read organic cooperation. At the same time it is evident that clerics, while being incardinated into the prelature, belong to the prelature in a way that those who are merely related by organic cooperation do not.

There are also other questions raised concerning the equality or inequality among the members in virtue of provisions of the statutes of the prelature. Part of the governance structure of Opus Dei is the "General Congress." This congress is the supreme representative structure within Opus Dei whose task it is to elect the prelate of Opus Dei. The General Congress is composed of priests and lay men (not women) at least 32 years of age and having been definitively incorporated into the Prelature for at least nine years.¹⁶⁶ The participation of women in the governance structure of

¹⁶⁵The word "incorporationis" has a technical meaning often found in the canons on religious and secular institutes and societies of apostolic life to indicate this integral and full membership. See discussion above in chapter two.

¹⁶⁶Statuta, n. 130:

"§1. Praelatus, qui interne dicitur Pater cuiusque officium est ad vitam, seligitur excluso compromisso a Congressu Generali electivo hunc in finem convocato; electio vero Romani Pontificis confirmatione indiget.

"§2. Congressus Generalis constituitur a Congressistis, qui etiam vocantur membra Congressus, Sunt congressistae illi sacerdotes vel viri laici, triginta duos saltem annos nati et iam a novem saltem annis Praelaturae definitive incorporati, qui inter fideles ex diversis nationibus vel regionibus, in quibus Opus Dei suum laborem apostolicum exercet, nominantur ad vitam a Praelato, cum voto deliberativo sui Concilii, auditis etiam Commissione

the prelature takes place in the feminine section under the governance of the prelate, the auxiliary vicar, the vicars of the central secretariate and the central council.¹⁶⁷ These positions are filled by men of the prelature.¹⁶⁸ However, in the statutes of Opus Dei, what is stated concerning men also refers to women unless it is otherwise obvious from the context or from the nature of the thing.¹⁶⁹

We have also seen that only celibates can be numeraries and associates. Since only numeraries and associates are involved in the internal operations of Opus Dei, married members are excluded from certain positions within Opus Dei. This would be in keeping with Escrivá's view that celibates are needed for the directive functions in the prelature. The real core of the Opus Dei apostolate is what its members do in the world, not what they do

Regionali et Congressistis respectivae Regionis."

¹⁶⁷ Statuta, n. 146:

"§1. Sectio mulierum regitur a Praelato cum Vicario auxiliari, si adsit, Vicario Secretario Generali, Vicario Secretario Centrali et Concilio Centrali, quod Assessoratus Centralis appellatur, et eundem locum habet in Sectione mulierum ac Consilium Generale in Sectione virorum."

¹⁶⁸ Statuta, n. 133:

"§3. Pro Sectione mulierum adsunt etiam Congressus Generales tum ordinarii cum extra ordinem convocati, non autem Congressus electivi. His Congressibus praest Praelatus, cui assistant Vicarius auxiliaris, si adsit, atque Vicarii Secretarius Generalis et Sacerdos Secretarius Centralis. Congressistae nominantur pari ratione ac viri Congressistae."

¹⁶⁹ Statuta, n. 185:

"Quae de viris hoc in Codice statuuntur, etsi masculino vocabulo expressa, valent etiam pari iure de mulieribus, nisi ex contextu sermonis vel ex rei natura aliud constet aut explicite specialia praescripta ferantur."

internal to its own organizational structure. This would not exclude married persons from actively participating fully in the important apostolate of Opus Dei.

These differentiations among the membership in Opus Dei have developed over the years. However, from the very beginning Escrivá emphasized the importance of the laity striving for sanctification in the world. The fact that numeraries and associate members are the ones involved in the internal structures of governance within the prelature is also in keeping with the intentions of the founder. Escrivá felt that celibates should have the leadership positions because they were better able to dedicate themselves to apostolic endeavors.¹⁷⁰ Escrivá also felt that priests should be in positions of leadership and formation within the structure of the prelature since they are the ones called to nourish and guide the lay members.¹⁷¹

The 1983 code indicates that the prelature is primarily to be composed of clerics. The laity are those who are to cooperate in the apostolate of the prelature. The nature of this cooperation must be spelled out in the statutes of the prelature.

Clerics

Special consideration must be given to the issues dealing with the clergy related to Opus Dei. There are two ways in which priests can relate to Opus Dei. Priests who are numerary and

¹⁷⁰ Escrivá, Conversaciones, p. 130.

¹⁷¹ Ibid., p. 105

associate members can be incardinated in the prelature itself. The canonical mission for these priests is conferred by the prelate himself or through his vicar. The prelate also confers the proper ministerial faculties for use within the prelature.¹⁷²

After ordination a priest incardinated into Opus Dei must continue his education with frequent courses of theory and practice in all appropriate areas.¹⁷³ The prelate is to provide sustenance to the priests of the prelature.¹⁷⁴

Associate and supernumerary members can be incorporated through membership in the Priestly Society of the Holy Cross. This is an association of clerics who are not incardinated into the prelature but wish to follow the spirit and ascetical practice of Opus Dei.¹⁷⁵ These priests belong to their own presbyterates and

¹⁷²Statuta, n. 50:

"§2. Missio canonica sacerdotibus confertur a Praelato, per se vel per respectivos Vicarios circumscriptionum, semper quidem iuxta normas a Praelato statutas, ipsis concedendo opportunas licentias ministeriales, Sacrum nempe litandi. Verbum Dei praedicandi atque confessiones excipiendi."

¹⁷³Statuta, n. 54.

"Post receptam sacram Ordinationem, sacerdotes periodice frequentabunt cursus theoreticos et practicos de re pastorali, collationes, conferentias aliaque id genus, atque statuta examina post presbyteratum et pro licentiarum ministerialium prorogatione subibunt, iuxta normas a Praelato determinatas."

¹⁷⁴Statuta, n. 55:

"Praelato officium est providendi, mediantibus opportunis normis, honeste sustentationi clericorum qui sacros Ordines receperint in servitium Praelaturae, necnon congruae eorum assistentiae in casibus infirmiae valetudinis, invaliditatis et senectutis."

¹⁷⁵Statuta, n. 57:

"Societas Sacerdotalis Sanctae Crucis, de qua in n. 36. constituitur in Associationem, quo melius suum sanctificationis sacerdotalis finem etiam inter clericos ad Praelaturam non

are incardinated into a diocese. They voluntarily dedicate themselves to sanctity in the exercise of their ministry and are subject to their ordinary.¹⁷⁶

For admission and incorporation of clerics as associates or supernumeraries of the Priestly Society of the Holy Cross the same norms are to be observed as for any other person who desires to become an associate or supernumerary.¹⁷⁷

The priests of the Priestly Society of the Holy Cross have as their work the promotion of priestly sanctity and a sense of unconditional subjection to the hierarchy. They are also to foster common life among the diocesan clergy.¹⁷⁸

pertinentes prosequatur iuxta spiritum et praxim asceticam Operis Dei."

¹⁷⁶ Statuta, n. 58:

"11. Socii Aggregati ac Supernumerarii Societatis Sacerdotalis Sanctae Crucis, qui quidem membra non efficiuntur cleri Praelaturae, sed ad suum cuiusque presbyterium pertinent, sunt sacerdotes vel saltem diaconi alicui dioecesi incardinati, qui Domino in Societate Sacerdotali Sanctae Crucis iuxta spiritum Operis Dei, peculiari superaddita vocatione, sese dicare volunt, ad sanctitatem nempe in exercitio sui ministerii pro viribus prosequendam, quin tamen eorum diocesana condicio plenaque proprio uniuscuiusque Ordinario subjectio quoquo modo ex hac dedicatione afficiantur, sed contra, iuxta infra dicenda, diversis respectibus confirmentur."

¹⁷⁷ Statuta, n. 64:

"Pro admissione ad incorporatione clericorum inter Aggregatos vel Supernumerarios Societatis Sacerdotalis Sanctae Crucis, eadem normae et agendi ratio servari debent, quae pro admissione et incorporatione Aggregatorum et Supernumerariorum Operis Dei praescribuntur, etiam relate ad tempus peculiaris formationis spiritualis et ad media quae candidatis praebentur, ut eorum spiritualis vita alatur."

¹⁷⁸ Statuta, n. 68:

"Praeter finem Operis Dei, quem hi socii in propria condicione suam faciunt, hunc ut peculiarem propriumque vindicant, scilicet; sanctitatem sacerdotalem atque sensum plenae deditiois ac

An analysis of the relationship of priests in Opus Dei as incardinated members or as members of the Priestly Society of the Holy Cross raises some questions. Can numerary members belong through the Priestly Society, or are all numerary members incardinated by definition of what it is to be a "numerary" member? Can supernumerary members be incardinated, or is the closer involvement in internal operations of the prelature a necessary precondition in the Statutes for a priest to be incardinated in the prelature?

Governance

The governance of Opus Dei is structure on two basic levels. At the level of the full prelature the governance is entrusted to the prelate and his council according to universal law and the statutes of the prelature. The power of governance which the prelate enjoys is ordinary power in regard to the priests incardinated into the prelature. The priests not incardinated into the prelature are under the jurisdiction of their diocesan bishop. In regard to lay members incorporated into the prelature, this power affects only those matters which deal with the purpose of the prelature. By "ordinary" of the prelature is understood to be the prelate and others with general executive power, namely the vicars general and regional.¹⁷⁹

subjectionis Hierarchiae ecclesiasticae in clero dioecesani vitam communem fovere, prout ordinario loci expedire videatur."

¹⁷⁹ Statuta, n. 125:

"§1. Praelaturae regimen committitur Praelato, qui suis Vicariis et Consiliis adiuvatur iuxta normas iuris universalis et huius Codicis.

For anyone to be elected prelate he must be: a priest member of the General Congress, an incorporated member of the prelature for at least ten years, five years ordained, a son of a legitimate marriage, forty years of age, and of good reputation. He must also be prudent, pious, obedient to the Church and the magisterium and devoted to Opus Dei. He must be educated holding a doctorate in an ecclesiastical discipline.¹⁸⁰

Assisting the prelate in directing and governing the prelature is the General Council. The council or consultors are the Auxiliary Vicar, Vicar Secretary General, Vicar of the Women's Section, at least three Vice Secretaries, one Delegate of each

"§2. Potestas regiminis qua gaudet Praelatus est plena in foro tum externo tum interno in sacerdotes praelaturae incardinatos; in laicos vero praelaturae incorporatos haec potestas ea est tantum quae spectat finem peculiarem eiusdem Praelaturae.

"§3. Praelati potestas, sive in clericos sive in laicos, ad normam iuris universalis et huius Codicis exercetur.

"§4. Nomine Ordinarii Praelaturae iure intelleguntur et sunt Praelatus necnon qui in eadem generali gaudent potestate exsecutive ordinaria, nempe Vicarii pro regimine tum generali cum regionali Praelaturae constituti."

¹⁸⁰ Statuta, n. 131:

"Ut quis possit Praelatus eligi requiritur;

"1' ut sit sacerdos membrum Congressus Generalis, iam a decem saltem annis Praelaturae incorporatus, et a quinquennio saltem in presbyteratus Ordine constitutus, filius legitimi matrimonii, bona existimatione gaudens et natus saltem annos quadraginta;

"2' eluceat praeterea prudentia, pietate, erga Ecclesiam eiusque Magisterium exemplari amore et oboedientia, erga Opus Dei devotione, erga Praelaturae fideles caritate, erga proximos zelo;

"3' praeditus sit speciali cultura etiam profana, immo laurea doctorali in aliqua ecclesiastica disciplina, aliisque qualitatibus ad agendum necessariis."

region, Prefect of Study and Administrator General.¹⁸¹ The first among the consultors is the Secretary General. He is always a priest.¹⁸²

The second level of the governance structure is that of the lower divisions. The prelate, with the consent of the council, can erect, change, define and suppress the circumscribed areas of the prelature called regions or quasi-regions.¹⁸³ The governance of each region is under a regional vicar nominated by the prelate with a deliberative vote of the council.¹⁸⁴ By the very fact of erection

¹⁸¹ Statuta, n. 138:

"§1. Ad Praelatum adiuvandum in dirigenda atque gubernanda Praelatura est Consilium Generale, constans e Vicario auxiliari, si adsit, Vicario Secretario Generali, Vicario pro Sectione mulierum, qui Sacerdos Secretarius Centralis nuncupatur, tribus saltem Vicesecretariis, uno saltem Delegato cuiusque Regionis, Studiorum Praefecto et Administratore Generali, qui constituunt Consilium plenum et vocantur Consultores."

¹⁸² Statuta, n. 144:

"§1. Inter Consultores primus est Secretarius Generalis. Est semper sacerdos, post Praelatum, venit, si Vicarius auxiliaris non adsit, eumque absentem vel quocumque modo impeditum supplet. Praelatum praeterea specialiter adiuvat tum in iis quae ad regimen et incepta universae praelaturae, tum in iis quae ad res oeconomicas attinent, se illis tantum facultatibus gaudet quas vel habitualiter vel ad casum Praelatus delegaverit."

¹⁸³ Statuta, n. 150:

"Praelati de consensu sui Consilii est circumscriptiones regionales, quae vocantur Regiones vel Quasi-Regiones, erigere, mutare, aliter definire, et etiam suppressere."

¹⁸⁴ Statuta, n. 151:

"§1. Regimini uniuscuiusque Regionis praepositur Vicarius, qui Consiliarius Regionalis nuncupatur, quemque nominat praelatus cum voto deliberativo sui Consilii; Consiliario assistit Consilium, quod vocatur Commissio Regionalis, constans membris usque ad duodecim, designatis inter Praelaturae fideles de quibus in n. 13 pariterque nominatis a Praelato audito suo Consilio, cuius consensus requiritur in casibus de quibus in nn. 157, §1. et 159."

by the prelate, regions, quasi-regions and delegations acquire juridic personality.¹⁸⁵ Delegations within a region can be given juridic personality in the decree of erection.¹⁸⁶

¹⁸⁵The basis of this authority derives from c. 114. in the 1983 code:

"§1. Personae iuridicae constituuntur aut ex ipso iuris praescripto aut ex speciali competentis auctoritatis concessione per decretum data, universitates sive personarum sive rerum in finem missioni Ecclesiae congruentum, qui singulorum finem transcendit, ordinatae.

"§2. Fines, de quibus in §1, intelleguntur qui ad opera pietatis, apostolatus vel caritatis sive spiritalis sive temporalis attinent.

"§3. Auctoritas Ecclesiae competens personalitatem iuridicam ne conferat nisi iis personarum aut rerum universitatibus, quae finem persequuntur reapse utilem atque, omnibus perpensis, mediis jaudent quae sufficere posse praevidentur ad finem praestitutum assequendum."

¹⁸⁶Statuta, n. 154:

"Ipso facto erectionis, Regiones, Quasi-Regiones et Delegaciones in circumscriptione regionali constitutae donari possunt personalitate iuridica in erectionis decreto."

CONCLUDING OBSERVATIONS

A study of the juridical development of Opus Dei allows us to understand the history of this institute within the vast framework of religious and secular institutes, as well as other juridic configurations developed in the Vatican Council.

The idea of the Sacerdotal Society of the Holy Cross and Opus Dei began as an attempt to offer lay persons an opportunity to sanctify their lives in the world. As the "Work" grew in numbers and in scope Father Escrivá, the founder of Opus Dei, began to search for an appropriate juridic structure. In 1941 Opus Dei became a simple pious union. In 1943 it received approval as a society of common life without vows. In 1947 Opus Dei received approval as the first secular institute.

The Second Vatican Council, faced with the need for a better distribution of clergy and the special pastoral needs of the Church, developed the concept of personal prelatures in the context of mission. The conciliar approach to personal prelatures, went through various refinements in post-conciliar legislation and in the process of revising the Code of Canon Law. Opus Dei was erected as a personal prelature in 1982 just before the new Code of Canon Law was promulgated.

In this study I have analyzed Opus Dei as a personal prelature

in light of the new code. This study has surfaced some questions as to the relationship between what "personal prelature" means in the statutes of Opus Dei and its meaning in the code. These questions are significant because they deal with the nature of a personal prelature in the code and how that fits in to the nature of Opus Dei as described in its statutes. While these questions call for further investigation, this is beyond the scope of a licentiate dissertation and must be left for others to address.

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