

WALTER KASPER ON THE THEOLOGY AND THE PRAXIS OF THE BISHOP'S OFFICE

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[The author reviews the discussion between Kasper and Ratzinger on the ontological priority of the universal Church, and then summarizes several studies by Kasper on the papacy and episcopacy at Vatican I, on Aquinas's teaching about the bishop's ministry, and Vatican II's teachings on the institution of the bishop's office, as well as the pastoral, collegial, and sacramental character of that office. Finally, he touches on Kasper's theological convictions regarding international synods of bishops, episcopal conferences, the election of bishops, and the personal responsibility of the bishop for the leadership in his local church.]

WALTER KASPER, serving at the time as bishop of Rottenburg-Stuttgart, published in a 1999 *Festschrift* honoring Bishop Josef Homeyer a chapter on the theology and praxis of the bishop with special reference to the relation of the local bishop to the universal Church.¹ Shortly after the publication of the *Festschrift* Kasper was appointed to the Pontifical Council for Promoting Christian Unity, was named a cardinal, and, on the retirement of Cardinal Edward Cassidy, became Prefect of that pontifical council.

Keeping close to his text, I will summarize here Kasper's arguments, referring also to an earlier writing of his on Vatican I, and I will attempt to situate his theology in the context of ongoing theological reflection. I will look briefly at the discussion between Cardinal Kasper and Cardinal Ratzinger on the ontological priority of the universal Church, sketch Kasper's appropriation of the teaching of Thomas Aquinas, look more substantively

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¹ "Zur Theologie und Praxis des bischöflichen Amtes," in *Auf neue Art Kirche Sein: Wirklichkeiten-Herausforderungen-Wandlungen*, ed. Werner Schreier and Georg Steins (Munich: Bernward bei Don Bosco, 1999) 32–48, at 43.

at Kasper's understanding of Vatican II's position both on institution of the bishop's office by the will of Jesus Christ, and the pastoral, collegial, and sacramental character of that office together with its relation to the Petrine office. Finally, I will touch on the theological status of the synods of bishops and episcopal conferences, the election of bishops, and the personal responsibility of the bishop for the leadership of his local church.

THE ONTOLOGICAL PRIORITY OF THE UNIVERSAL CHURCH

In his *Festschrift* article, Kasper took issue with the position of the Congregation for the Doctrine of the Faith (CDF) expressed in a 1992 letter on "Some Aspects of the Church Understood as Communion."² The letter, intended to correct some interpretations of Vatican II's position on the Church as a communion, stated that "the universal Church is ontologically and temporally prior to the local church" (no. 9).³ Kasper wrote that the position criticized by the CDF letter, namely, the local church as a self-sufficient subject, and the universal Church as a federation of local churches, is rightly rebuked, as it is "a position no Catholic theologian could earnestly represent."⁴ But, in his view, the response of the CDF is excessive. In asserting the ontological and temporal priority of the universal Church over the local church, the CDF goes far beyond Vatican II, amounting to a "departure (*Verabscheidung*)" from the council's teaching, "more or less a subversion (*Umkehrung*)" of Vatican II's position. The position taken by CDF is to be understood as "a theological attempt to restore Roman centralism . . . a process which appears to have already begun."⁵ In a word, "the relationship of the local church and the universal Church has been thrown out of balance."⁶

Kasper's position is that the universal Church is not ontologically and temporally prior to the local church, but the mystery of the Church is such that the universal Church and local churches exist simultaneously. When one is in the diocese of Rottenburg-Stuttgart one is already in the universal Church. One does not step out of the diocese in order to enter the universal Church. When one speaks of the "one, holy, catholic and apostolic Church" one does not mean just the universal Church, as though the universal Church existed as an abstraction, apart from its realization in the local churches of the world. No. What is meant is the concrete Church which is

² *Origins* 22 (June 25, 1992) 108–12. I summarized the debate in "The Ratzinger/Kasper Debate: The Universal Church and the Local Churches," *Theological Studies* 63 (2002) 227–50.

³ *Origins* 22 (June 25, 1992) 109.

⁴ "Zur Theologie und Praxis" 43.

⁵ *Ibid.*

⁶ *Ibid.*

at the same time local and universal.⁷ The universal Church is not ontologically prior to the local churches.⁸

Thomas Aquinas Can Surprise Us

Although the public theological debate between the two cardinals focused on the claim of the CDF of the universal Church's ontological priority, Kasper had raised a series of issues touching the bishop's office. Of interest is not only his position but his manner of doing theology. Kasper has conservative credentials, a board member of the conservative journal *Communio* (together with Joseph Ratzinger, Henri de Lubac, Hans Urs von Balthasar, and Karl Lehmann), a journal which emerged after Vatican II as a counterbalance to the more liberal journal *Concilium*.

True to his credentials as a conservative man of the center open to the future, he begins his theology of the bishop's office with a look at its source in Scripture and tradition, and then provides an extensive section on the teaching of Thomas Aquinas (amounting to one-third of his whole discussion).⁹ Kasper looks to Aquinas not for the definitive statement, but as a pointer, reminding us of how frequently Aquinas surprises, showing himself free of determinations of age and culture, able to reflect the broad ancient tradition. For instance, Aquinas teaches that the bishop's office belongs "to the ecclesiastical order of beauty," a concept that seems to

⁷ Ibid. 44.

⁸ Kasper does not reflect on the previous history of the claim to ontological priority. Ratzinger first used the ontological language in a series of lectures in a course given to about 100 Brazilian bishops in Rio de Janeiro, July 23–27, 1990. These lectures were combined with other lectures given by Ratzinger, appearing first in a book he published in a private capacity. The pertinent text reads: "The temporal and ontological priority lies with the universal church; a church that was not catholic would not even have ecclesial reality" (*Zur Gemeinschaft Gerufen: Kirche Heute Verstehen* [Freiburg im Breisgau: Herder, 1991] 41; English translation: *Called to Communion* [San Francisco: Ignatius, 1991] 44). Within the year of its appearance in Ratzinger's private German publication, before there had been sufficient time for it to be tested by the believing community, it appeared in a letter of the Congregation for the Doctrine of the Faith (CDF) as the faith of the Church with a claim to magisterial authority. The claim to ontological priority is a large claim, indeed, a very large claim. I have looked through theological literature for other evidence of ontological language in relation to the priority of the universal Church, but could find none in the Catholic tradition. Ratzinger's use is without precedence. Some have questioned the appropriateness of the Prefect of the CDF inserting his personal untested opinion into a document stamped with magisterial authority as the faith of the Church. This is not an academic matter. It raises problems of conscience for those who believe in the teaching authority of the Church and the CDF's role in it.

⁹ "Zur Theologie und Praxis" 33–38.

fascinate Aquinas.¹⁰ The interpretation of Scripture is the bishop's "principal office carried to the highest degree (*principalissimum*)."¹¹ Only out of the need of love, that is the need of the Church, should one assume the office of bishop, and it is the need of the Church which does not allow a man to refuse the office when asked to assume it. The office belongs to the *status perfectionis*, meaning it is an objective ministry directed to making others holy.¹² The assumption of the bishop's office must be a sign of readiness for martyrdom. For Aquinas *episcopus* means *superintendens*, but not in the sense of watching over in the managerial sense, but of watchful care in the pastoral sense.¹³ Neither fear nor panic should characterize the bishop's ministry, but a "believing deliberateness," because of the One who is in the boat whom even the wind and the rain obey.¹⁴

KASPER ON THE EPISCOPACY AND PRIMACY AT VATICAN I

Any theologian who writes on the theology of the bishop in the documents of Vatican II needs to be acquainted with the teaching of Vatican I. Vatican II was both completing the work of the earlier council and restoring the balance between primacy and episcopacy that was the consequence of the abrupt ending of Vatican I because of the outbreak of the Franco-Prussian War. In 1962, while still a young theology professor, Kasper wrote an article on primacy and episcopacy in Vatican I.¹⁵ There he noted that in spite of the numerous publications on Vatican I, research was still "in its beginnings," partly because of the oversimplified views of the relationship between primacy and episcopacy.¹⁶ More specifically, the tendency was to see Vatican I as resolving the dialectic that has existed over the centuries between papacy and episcopacy in a "victory for papalism."¹⁷ Though Vatican I's preliminary schema *De ecclesia*, authored by Clemens Schrader, clearly represented the Ultramontanist view, it was free of the extremes of neo-papalism.¹⁸ And even the definition of infallibility itself was not a moment of papal triumphalism. Kasper notes that Cardinal Guidi of Bologna wanted to make clear that to say that infallibility was guaranteed by the assistance of the Holy Spirit could be misunderstood, as though the

¹⁰ *Summa theologiae* 2-2, q. 183, a. 2 and a. 3; q. 184, a. 4; Suppl. q. 34, a. 1; q. 37, a. 1; and elsewhere.

¹¹ *ST* 3, q. 67, a. 2, ad 1 in reference to Acts 6:2 and 1 Corinthians 1:17.

¹² *ST* 2-2, q. 184, a. 5.

¹³ *ST* 2-2, q. 184, a. 7, ad 3; see also q. 182, a. 1, ad 1.

¹⁴ "Zur Theologie und Praxis" 38.

¹⁵ "Primat und Episkopat nach dem Vatikanum I," *Theologische Quartalschrift* 142 (1962) 47-83.

¹⁶ *Ibid.* 47.

¹⁷ *Ibid.*

¹⁸ *Ibid.* 52.

person of the pope was changed. Rather the pope is free from error by virtue of an “actual grace (*auxilium actuale*),” “a transient illumination (*lux transiens*).”¹⁹ The specific act is infallible.

Vatican I was more concerned with the relationship of the primacy to the individual bishop than to the college of bishops.²⁰ Because the council did not in a substantive way get to the consideration of the role of bishops, the definition of papal primacy is one-sided (though not in an exclusive sense, which would be heretical). Still the definition must be judged against the perspective of the errors against which it was directed and not in the abstract. The definition needs to be seen in the context of the whole truth which is present in Scripture and tradition. “The truth is always whole.”²¹ In fact, Vatican I did not present a distorted teaching either about the papacy or the episcopacy.

Both the vision and the vocabulary of Vatican I are juridical. The primacy is a primacy of jurisdiction, but again, jurisdiction seen over against privileges and investitures of other powers. This perspective must be kept in mind when evaluating the text. Within the Catholic tradition such juridical categories and language have their place, even while recognizing that the Scriptures speak a different vernacular. Indeed, during the council, speakers criticized the heavy arid (*dura et arida*) language.²² The New Testament speaks not of right and power, but of service and ministry. This biblical vision does not contradict the decrees of Vatican I. But a more ecumenically sensitive text would have preferred Ignatius of Antioch’s “presidency in love.”²³ Further, the preeminence of Rome in the language of antiquity was not juridical, but sacramental/mysterion. Even in Vatican I there are echoes of this terminology, but it must be further unfolded. When this is done then the primacy would appear as a quasi-sacramental effective sign of unity, as a living personal organ and instrument of Christ and of the unity bestowing presence of the Lord, which can always again become an event.”²⁴

Further, if one thinks that the manner in which the 1983 Code of Canon Law, insofar as it is a human construction, has codified the decrees of Vatican I favoring papacy over episcopacy, still such a codification “is only

¹⁹ Ibid. 69; Guidi’s views were thus expressed: *Auxilium dixi actuale et lux transiens, quae in persona quidem papae recipitur, sicuti personae datur, non tamen ut persona immutetur, vel novam quandam proprietatem acquirat, ex qua possit recte denominari, sed solum ut agat atque suo rite officio fungatur* (Johannes Mansi, *Sacrorum conciliorum nova et amplissima collectio*, 53 vols. [Paris: H. Welter, 1900–27]) 52.741c–d).

²⁰ “Primat und Episkopat” 49.

²¹ Ibid. 77.

²² Ibid. 78 n. 120; Mansi 51.961c.

²³ Ignatius of Antioch, *Letter to the Romans*, Preface; SC 10.107.

²⁴ Kasper, “Primat und Episkopat” 78.

one realization, only *one* interpretation of the council, although possible and legitimate, but not the only interpretation by far.”²⁵ The same can be said for the praxis of the Church regarding the relation of papacy and episcopacy.

VATICAN II'S THEOLOGY OF THE BISHOP

The character of these reflections in Kasper's 1962 article on Vatican I, written as a 29-year-old priest-theologian, has echoes in his 1999 article on the theology and praxis of the bishop's office, written five years after becoming the bishop of Rottenburg-Stuttgart. In the later article, as in the earlier, Kasper denigrates neither Vatican I nor the 1983 Code of Canon Law. He wishes to return to the sources of the official magisterial and theological doctrine. “The council [Vatican II] did not offer a new theology of the bishop's office, but retrieved the early church's tradition, bringing the unfinished work of Vatican I to its conclusion. This double intention makes interpretation difficult. The council wanted to follow in the path of the early Church, balancing and completing the doctrine of papal primacy with the doctrine of the bishop's office together with collegiality in the bishop's office. In this way the council wanted to overcome curial centralization.”²⁶

Kasper rightly notes that built into the final text of Vatican II's Constitution on the Church, *Lumen gentium* (*LG*), are tensions present during the council and left unresolved, tensions still operative today. Today's tensions manifest themselves in the way the text of Vatican II is interpreted. The progressives read the text of *Lumen gentium* as a way of frustrating the logic of Vatican I with its emphases on papal primacy and infallibility. This results in a reading at variance with the restorationists, who stand at the other end of the interpretive spectrum. The restorationists interpret *Lumen gentium* in the light of Vatican I, seeing the 20th-century council as a prolongation of the 19th-century council. The restorationists want to restore the Roman centralism typical of the 19th century, a centralism that the majority of the Fathers at Vatican II wanted to overcome. Because these tensions are embedded in the very words of the constitution, both progressives and restorationists can vindicate their stance, especially in sections dealing with the bishop's office. Therefore the text needs a rereading.²⁷

In his reading of *Lumen gentium* Kasper wants to transcend the party agendas of both progressives and restorationists. In this new look at the text of the Constitution on the Church he sees the origins of the bishop's

²⁵ Ibid. 48.

²⁷ Ibid. 38–39.

²⁶ “Zur Theologie und Praxis” 38.

office in the will and institution by Jesus Christ. Because the bishop's office is of divine institution it is foundational in the sense that its existence and essential form is not a matter about which the Church can legislate. It is divinely given. By divine institution (*institutione divina*, *LG* no. 20) the bishops are constituted as shepherds in the Church as successors of the Apostles, a fact of both theological and practical significance for the Church. "This means that both the bishop's office in its existence and in its essential form is removed from the Church's competence. The office of bishop can not be abolished nor be restricted in its functions, either by the successors of Peter, or by episcopal conferences, or by postconciliar diocesan councils, in such a way that the bishop's office is dependent on them. This is to say, the exercise of the bishop's office cannot be restricted in such a manner that one can no longer *de facto* rightly speak of a proper responsibility of a shepherd, a responsibility conferred on him by Jesus Christ."²⁸

The Pastoral Office of the Bishop

Vatican II characterizes the bishop's office by three essential attributes: pastoral, collegial, and sacramental. The bishop's office is pastoral because it is a ministry of proclamation, sanctification, and leadership. The bishop's office is properly a ministry, and more specifically, the ministry of a shepherd (*LG* no. 18 f.), and the bishop must model himself on the image of the Good Shepherd (John 10:1–39), leading his sheep into good pastures, keeping them together, and guiding them in the paths of the gospel. This the bishop does by his threefold office of proclamation, sanctification, and leadership (*LG* no. 24). In this sense the bishop is "the proper, ordinary, and immediate pastor of his flock" (*Christus Dominus* no. 11), exercising a responsibility only he can fulfill, provided he has the necessary fullness of power given for this purpose (*CD* no. 8). "The duties correspond to the rights. This means that the powers of the bishop ought not to be practically eliminated in their functioning, either by higher authority or by reservations, beyond what is absolutely necessary. On the contrary, the task of the office of Peter is not to diminish, but to strengthen, reinforce, and defend the authority of the bishops."²⁹ Kasper's objections to the curial habit of reserving certain faculties to themselves, faculties really belonging to the local bishop, is tempered.³⁰

²⁸ *Ibid.* 39.

²⁹ *Ibid.* 40.

³⁰ The appearance of the *motu proprio Pastorale munus* in 1964 restored certain powers to the bishops. The title of the document speaks of concessions. "Apostolic letter . . . by which faculties and certain privileges are granted to the bishops" (*AAS* 56 [1964] 5). The introduction of the document begins by saying that the Holy See "has given powers" to the bishops. But in the body of the document the language shifts back and forth between "concession," and "belonging by law." Forty "pow-

The Collegial Office of the Bishop

The bishop's office is collegial, that is, the individual bishop belongs to a college of bishops. It is not the individual bishop who stands in what was imagined as a historic succession to a first apostle. Rather it is the college of apostles which is the successor to the college of the apostles. It is "in the manner of a college or a fixed group" (*LG* no. 19) that the episcopacy is constituted. Kasper wishes to avoid all misunderstanding on this point. Here college is not taken in a juridical sense, and does not mean a gathering of equals, in which the power in each individual or in the group as a whole is in some manner transferred to the president of the group. In speaking of the college of bishops one must not look for its meaning and structure in any purely human gathering, but to revelation. In a concrete way the bishops under each other should be one with the bishop of Rome, "a community in the bonds of unity, love, and peace" (*LG* no. 22). This finds expression in the very ordination of a bishop, which, according to the determination of the Council of Nicaea (325), must be celebrated by three bishops in order to give expression to "hierarchical communion" (*hierarchica communio*) in which the individual bishop must stand. Besides this collegial relationship with the bishop of Rome, other forms exist, namely, with patriarchal churches, episcopal conferences, and the mutuality of ideas and aid between various bishops and their dioceses. So collegiality exists not only "vertically" with the bishop of Rome, but "horizontally" between the bishops themselves. As is clear, the collegial dimension of the bishop's office has meaning for the structure and authority of national episcopal conferences, as well as other local and regional groupings of bishops, all of which have their specific weight and importance.³¹

Without designating them vertical and horizontal relations, Kasper notes the same dialectic at Vatican I.³² Cardinal Schwartzberg of Prague noted that Christ gave the same rights to both Peter and the apostles, invoking Ephesians 2:19–20; John 21:21; 17:7 and Matthew 18:18.³³ Bishop Bartholomew d'Avanzo, speaking for the Deputation of the Faith, countered calling on Matthew 16:18; Luke 22:32 and John 21:15 f., asserting that the relationship between Peter and the other apostles was one "of absolute

ers" were listed as belonging by right to residential bishops. Claude Soetens notes the opinion of Yves Congar, namely, the text has the pope making "a concession" to the bishops when in fact he was only restoring—and with ill grace—a part of what he had robbed from them for centuries!!!" (in *History of Vatican II*, ed. Giuseppe Alberigo and Joseph A. Komonchak [Maryknoll, N.Y.: Orbis, 2000] 3.321).

³¹ *Ibid.* 40.

³² *Ibid.* 57–58.

³³ Mansi 52.523a.

dependence" (*relatio absolutae dependentiae*), though he granted that the fullness of power granted to Peter was not without limits.³⁴

Kasper does not enter into the thought pattern behind d'Avanzo's "relation of absolute dependence," namely, an ecclesiology based on the model of the absolute monarch. Papal monarchy had a long history, symbolized by the tiara, which in the days of Boniface VIII (1294–1303) and beyond, expressed the spiritual and temporal power. This tradition was reinforced by Joseph de Maistre's *Du Pape* (1817), in which he asserted that "infallibility in the spiritual order and sovereignty in the temporal order are two words perfectly synonymous. The one and the other express this highest power which dominates all others and from which all others derive; governing, but not governed; judging, but not judged."³⁵ He added that monarchy "is the best form of government, the most durable, the most natural to man. We judge the same for the Roman court. Monarchy is the sole possible form of government for the rule of the Catholic church."³⁶ De Maistre's book influenced the development of 19th-century Ultramontane ecclesiology, proposing what Camille Latreille called a kind of "metaphysics of sovereignty," though de Maistre's lack of theological perspective (he was neither theologian nor historian) made him more popular with the laity than with the theological community.³⁷ De Maistre's *Du Pape* announced the revival of French Ultramontanism.

Such views have long been abandoned and not even the most ardent centralist would espouse them. Kasper, in his 1962 article on Vatican I, writing not of infallibility but of primacy, noted that "the doctrine of the

³⁴ Bishop d'Avanzo stated: uno verbo a fundamento aedificium absolute pendet, non viceversa . . . Ergo relatio apostolorum ad Petrum quantum ad rem ipsam est relatio absolutae dependentiae (Mansi 52.713c–719c).

³⁵ *Du Pape*, 2nd ed. (Louvain: Vanlinthout and Vandenzande, 1821) 2. De Maistre also said: "The world has become too large for general councils, which were appropriate for the years when Christianity was young" (ibid. 31). "The rights of the Sovereign Pontiff and his spiritual supremacy are so sacred in the Catholic Church that they form the very essence of the religion . . . The Protestants call us *papists*, and they are entirely right on the word; they deceive themselves . . . only in the signification they give it" ("*Lettre sur le Christianisme*," *Oeuvres complètes*, ed. Rodolphe de Maistre, 14 vols. [Lyons: Vitte et Perrussel, 1884–1893] 8.508–9). In a letter to a young Russian woman, de Maistre wrote: "If I were permitted to establish degrees of importance among things of divine institution, I would place the hierarchy before dogma, since it is indispensable to the maintenance of faith" (*Oeuvres complètes*, 8.142; see also Richard A. Lebrun, *Throne and Altar: The Political and Religious Thought of Joseph de Maistre* [Ottawa: University of Ottawa, 1965] 132–54).

³⁶ *Du Pape* 453.

³⁷ John T. Ford, "Infallibility: A Review of Recent Studies," *Theological Studies* 40 (1979) 284 n. 46. See also Roger Aubert, "La Géographie ecclésiologique au XIXe Siècle," in *L'Ecclésiologie au XIXe siècle* (Paris: Cerf, 1960) 17–19.

Church does not take its departure from the teaching on the primacy. The whole Church is the Mystical Body of Christ, and in its totality is sealed by the Holy Spirit.”³⁸ In Ratzinger’s response to Kasper’s contribution to the *Festschrift* there is a different formulation. Ratzinger contends that the office of Peter and its responsibility presupposes the universal Church. While granting that one must ever seek anew the right relationship between the office of bishop and that of Peter, Ratzinger concludes: “But this relationship is only rightly understood when the mission of the Church is seen from the point of view of the primacy. In all times [the relationship] is ordered in and under the primacy on the commission to bring God to humankind, and humankind to God. The ‘why’ of the Church is the gospel, and around it all must turn.”³⁹

The Sacramental Office of the Bishop

In his reflections on how to articulate the doctrine of papal primacy of Vatican I for today Kasper gave extensive place to the sacramental dimensions of the bishop’s office. Building on Colossians 1:18 (“that in all things he may come to have the first place”) Kasper suggested that “the pope is the instrument of this primacy of Christ; he expresses [the primacy] in and with the whole Church, represented by the whole of the episcopate.”⁴⁰ The specific manner of joining the papal *plenitudo potestatis* to the episcopate can only be in sacramental categories. If one is thinking sacramentally the primacy is the tension between the two poles: Christ, whose organ he is, and the Church, whose unity the primacy is to serve. Only in this sacramental mutuality of the ordering between Christ and the unity of the Church can the primacy be understood.⁴¹

The texts of Vatican I move Kasper to suggest that one should not place primacy and episcopacy alongside of one another, and then let them come to terms with each other, but rather see them in the sacramental relation to Christ. The communion of the saints is based on the communion in the holy things. The plenitude of power of Christ can become an event through the primacy *and* the episcopacy (each in its own way), according to freedom of God and the concrete situation of the Church.⁴²

Kasper stresses the advance Vatican II made over Vatican I in lifting up the ordination of a bishop, in which the fullness (*plenitudo*) of the sacra-

³⁸ “Primat und Episkopat” 52.

³⁹ “Das Verhältnis von Universalkirche und Ortskirche aus der Sicht des Zweiten Vatikanischen Konzils,” *Frankfurter Allgemeine Zeitung*, December 22, 2000, 46.

⁴⁰ “Primat und Episkopat” 78–79. ⁴¹ Ibid. 79.

⁴² Ibid. 79–81. Kasper notes that one should not think that pope and bishops together exercising the plenitude of power comes to something more than if the pope acted alone (ibid. 79 n. 122).

ment of order is conferred, and with it the offices of sanctification, teaching, and governance (*LG* no. 21).⁴³ Vatican II reappropriated and reintroduced the ancient teaching present before Peter Lombard. In the teaching of Peter Lombard, Kasper recalled, the ordination of a bishop was purely sacramental, giving power only over the eucharistic body of Christ, but not a fullness of power over the Mystical Body of Christ, the Church. According to the Lombard, jurisdiction in the Church is given by the pope.⁴⁴ In this view there is a disjunction between the sacrament of order that the bishop receives in the liturgical rite, and jurisdiction that the bishop receives from the pope. In Vatican II this dichotomy was overcome.⁴⁵ On the basis of the sacramental character of ordination the bishop acts “in the person of Christ” (*in persona Christi*). The bishops are “vicars and legates of Christ” and are not “vicars of the Roman Pontiff,” having their own proper fullness of power (*potestas propria*, *LG* no. 27), which, it is true, they can only exercise collegially. Nonetheless, they exercise it in their own right, on the basis of their own responsibility.⁴⁶

Kasper rejoices that by emphasizing the specific sacramental quality of the ordination of a bishop the council was returning to the older view where there is no divorce between sacrament of order and jurisdiction. But the distinction between the order and jurisdiction surfaces again in the *nota explicativa praevia* 2, an interpretative note appended to *Lumen gentium* by Pope Paul VI in order to assure the positive acceptance of conservative

⁴³ It is interesting to note that a minority at Vatican II (in a letter to Paul VI signed by about twenty cardinals, ten superiors of religious orders, and some bishops) did not want the sacramentality of the episcopate confirmed “because this would be a way of canceling infallibility and primacy, which do not have their origin in a sacrament” (Evangelista Vilanova, “The Intercession (1963–1964),” in *History of Vatican II* 3.424).

⁴⁴ Kasper does not call attention to the teaching of Aquinas, brought up during the council by the Scholastic theologians. According to Aquinas, the power of the bishop over the Eucharist is not greater than that of the priest. If the episcopate is accorded a larger power (*potestas*) over the Mystical Body, the liturgical rite does not confer any special sacramental dignity, and the rite can be called *ordo* only in an expanded sense (Aquinas, *On the Fourth Book of the Sentences* d. 24, q. 2, a. 1, sol. 2; d. 24, q. 3, a. 2, sol. 2 and ad 2; Gérard Philips, *L’Eglise et son mystère au IIe Concile du Vatican*, 2 vols. [Paris: Desclée, 1967–1968] 1.247). Since it was contrary to the teaching of both Peter Lombard and Thomas Aquinas, the teaching of *Lumen gentium* is all the more astonishing.

⁴⁵ It should be noted that in one of the preparatory texts written by the Commission for Bishops and the Governance of Dioceses the text granted that the bishop’s office was by divine right, but his jurisdiction was considered to derive from papal delegation and to be limitable by papal decision. The dominant juridic orientation hindered the development of a theology of the local church. See Joseph A. Komonchak, “The Struggle for the Council during the Preparation of Vatican II (1960–1962),” in *History of Vatican II* 1.181.

⁴⁶ “Zur Theologie und Praxis” 41.

bishops when the constitution came up for vote at the council. According to this explanatory note the conferral of the “sacred power” in the ordination of a bishop needs a canonical, that is, juridical “determination,” an assignment to a determined task by the hierarchical superior. In this way the individual bishop is concretely taken into the whole episcopate.⁴⁷ Kasper does not call attention to the special character of the *nota*, namely, it is a papal note, not a conciliar document, which does not, however, lessen its authority.

The Relation of the Office of Bishop to the Office of Peter

During the council the real controversy was over the relationship of the office of bishop to the Petrine office, a controversy unresolved in the text of Vatican II, and an actuality in the Church today. The council teaches that Jesus Christ placed Peter at the summit of the college of apostles, and made Peter the head (*princeps*, *LG* no. 19). As successor of Peter, the bishop of Rome is “the Vicar of Christ and pastor of the whole Church, having full, supreme, and universal power over the whole Church, which he can always freely exercise” (*LG* no. 22; see *Christus Dominus* no. 2). As such he is the perpetual, visible principle, both source and foundation of the unity of the multiplicity of the bishops and the faithful, as the individual bishops are for their local churches (*LG* no. 23). But the bishop of Rome is not in every perspective the sole principle of unity of the bishops, for the bishop, as a member of the college of bishops, is commissioned to the care for the whole Church (*LG* no. 23; see also *CD* no. 6 f).⁴⁸ The college of bishops, however, has authority only when it stands in community with its head, the bishop of Rome. Literally this means: “The order of the bishops, together with its head, but never without its head, is, at the same time, the carrier of the highest and fullest power over the whole Church” (*LG* no. 22; see also *nota explicativa praevia* no. 3 f.), a doctrine that was stated in an official *relatio* also at Vatican I.⁴⁹

Here Kasper refers to the Catholic teaching that there are two carriers of the highest authority and power. The one carrier or subject of the highest authority is the pope alone; the other is the whole episcopate in union with the pope. Kasper notes that the distinction between the two carriers is inadequate in the technical sense, that is, the pope is included in the two carriers.

Kasper points to the tensions embedded in the text that raise unresolved

⁴⁷ Ibid.

⁴⁸ Kasper could have added that canon 756 of the Code of Canon Law recognizes this right.

⁴⁹ Mansi 52.1109c.

questions both theoretical and practical. No dogmatic conflict exists between the two carriers of the highest power. In precise terms the difficulty is pragmatic and legal (the emphasis is Kasper's), namely, that a practical unresolved conflict could emerge between the two carriers of the highest powers. Even when such a conflict is legally excluded—a valid act of the college of the bishop is not possible without the cooperation of the pope—tensions can arise. In view of the inadequate nature of the distinction between the two carriers of the highest power, Kasper asks the question whether the authority and initiative of the college is not “*practically* turned into a naked fiction, if the pope at all times can bind up the authority and initiative of the college, when, on the one hand, he can at any time, without formal cooperation of the college, make decisions and act, not as a private person, but as head of this college.”⁵⁰ Here is the point of tension. Very carefully Kasper excludes doctrinal conflict between the two carriers. Rather he points to a pragmatic issue which if pressed would become a legal difficulty. Behind this appears to be a plea that the pope involve the college of bishops in the governance of the Church, as is proper because the whole episcopate together with the pope is the subject or carrier of the highest power. Otherwise, contends Kasper, the college of bishops is *practically* without substance.

Kasper does not enter into the long discussion, preconconciliar, conciliar, and postconciliar on the importance of involving bishops in the governance of the universal Church. But the discussion is both an inner-Catholic question and an ecumenical imperative. In his encyclical *Ut unum sint* (no. 96), John Paul II issued a call for practical suggestions on how the Petrine ministry might be exercised. “Such a dialogue,” Kasper suggests, “would make sense only if it led to a new historical formation of the office of Peter. A new form would be similar to that which the office of Peter had in the first thousand years, but in a form appropriate to the differences in historical periods and the relationships of the various churches.”⁵¹ This appears to point to an exercise of the Petrine function which is more participatory in style, involving the bishops of the world.

Kasper could call on a number of historical studies to support the contention that the Petrine office has historically experienced a number of epochal transformations, and none of its historical forms is identical with the office, including the one that obtains today. “One must indeed say that in the present form of its exercise, the Petrine ministry has far from completely exhausted its ecumenical possibilities.”⁵² In any new form the essential nature of the Petrine office would have to remain unchanged. But the call for a new form needs to be understood in reference to Kasper's

⁵⁰ “Zur Theologie und Praxis” 42.

⁵¹ *Ibid.*

⁵² *Ibid.*

reading of the development of Catholic ecclesiology, read through the eyes of Vatican I and II. He is obviously convinced that the Catholic sense of the Church demands a strong, even vigorous, papacy. Any new form issuing from Pope John Paul II's call for help in rethinking the Petrine ministry would not mean a diminished Petrine role, but, on the contrary, as he said in a different context, "an even bigger role."⁵³ The new expression of the Petrine office would include a significant role for the whole episcopacy in the governance of the Church.

THE PRAXIS OF THE BISHOP'S OFFICE

Moving from the theology of the bishop's office, which is comparatively easy to formulate, Kasper notes that the praxis, on the other hand, is not easy. He recalls that the possibility of an international synod of bishops was vigorously discussed at the council. Part of the difficulty is related to the episcopal conferences. Germany had had regular meetings of the its episcopal conference since the 19th century; the 1983 Code of Canon Law (canons 447 to 459) strongly presumes their existence. After much discussion the *motu proprio* "On the Theological and Canonical Nature of the Episcopal Conferences" appeared in 1998.⁵⁴ In this document the practical meaning of episcopal conferences for the life of the Church was developed. Still, Kasper suggests that it "can scarcely offer more than a provisional solution."⁵⁵

The *motu proprio* made it clear that the conferences should not hinder the individual bishops in the exercise of their office in such a way that, without canonical justification, the episcopal conference, as the *motu proprio* expresses it, "takes the place of an individual diocesan bishop . . . or that they [the conferences] act as a filter or obstacle to the immediate relationship of the individual bishop with the Apostolic See" (No. 24).⁵⁶ The document said that in specific cases episcopal conferences have the authentic fullness of teaching authority—but not their divisions—only when and if the conference speaks unanimously. In response, Kasper recognizes that there have been false developments in the past—and such are at issue here—but he questions "whether such misuse should determine the perspective for the clarification of the theological nature of episcopal conferences."⁵⁷ Kasper is asking if misuse should determine use.

Kasper would have liked to have had the theology of episcopal confer-

⁵³ "The Whole Truth is Only Found Together: Cardinal Walter Kasper Talks to Robert Mickens," *The Tablet* 256 (July 6, 2002) 5.

⁵⁴ *Acta apostolicae sedis* 90 (1998) 641–58; *Origins* 28 (July 30, 1998) 152–58.

⁵⁵ "Zur Theologie und Praxis" 46. ⁵⁶ *Origins* 28 (July 30, 1998) 157.

⁵⁷ "Zur Theologie und Praxis" 45.

ences worked out more fully in the *motu proprio*. What is said gives evidence of the historical difficulties in determining the relationship between the local and the universal Church. Basically the *motu proprio* sees the episcopal conference as having a purely pastoral function, a useful tool for practical work of portioning out the pastoral task with the united power of the episcopal conference. As for theological content, the text seems satisfied to say that the theological basis of the conferences is to express “an affective collegiality” (*collegialitas affectiva*), which, indeed, is grounded in the ontological and sacramental reality of the office of bishops and their collegiality. Affective collegiality, in Kasper’s view, is a pale reflection of real collegiality.

Kasper does not explicitly reflect on the differences between the “Draft Statement on Episcopal Conferences,” issued in 1988, a second draft completed in 1990, and the final text of 1998, nor on the request of Pope John Paul II for a fuller treatment of the theological foundations of episcopal conferences.⁵⁸ The 1988 draft did distinguish between *actio collegialis* and *affectus collegialis*.⁵⁹ The first expressed collegiality in the strict sense and involves *actio collegialis*, while the second collegiality expresses only an analogical, theologically improper sense.⁶⁰ In the final draft the offending distinction has been removed, but the content of the distinction remains. *Collegialitas affectiva*, contends Kasper, is not enough. “This is astonishing, showing as it does the interior lack of balance in this text insofar as the text explicitly determines that the episcopal conferences are not even a partial realization of the collegiality of the episcopate.”⁶¹ Before the final text was issued, John Paul II in March 1996 asked the CDF to study the second draft issued in 1990 and explicitly requested the CDF to give the text “a fuller and more profound study of the theological and consequently the juridical status of episcopal conferences, and above all the issue of their doctrinal authority in the light of no. 38 of the conciliar decree ‘Christus Dominus’ and Canons 447 and 753.”⁶² In the view of Kasper the final text of the *motu*

⁵⁸ *Origins* 17 (April 7, 1988) 731–37. On recent developments in this matter, see Francis A. Sullivan, “The Teaching Authority of Episcopal Conferences,” *Theological Studies* 63 (2002) 472–93.

⁵⁹ “Draft Statement on Episcopal Conferences,” *Origins* 17 (1988) 733.

⁶⁰ *Ibid.*

⁶¹ “Zur Theologie und Praxis” 46.

⁶² *Origins* 28 (1998) 152. On October 25, 1990, Cardinal Bernardin Gantin, Perfect of the Congregation for Bishops, reported on the progress of the interagency Vatican group working on the drafts. He noted that the responses to the drafts showed that many bishops find necessary support in the episcopal conferences for their pastoral work. “While these factors are highlighted, with no less intensity in the documentation is the personal and nontransferable role of the individual bishop as *jure divino* vicar of Christ in his diocese stressed (cf. *Lumen Gentium*, 27 a–b). . . . Thus the pastoral ministry which they together exercise as a conference is really distinct from and at the same time connected with the pastoral governance which

proprio lacks these theological foundations. What is more, as yet there is no agreement on the theological foundations of episcopal conferences. “Therefore one can say that the theological view of this *Motu proprio*—seen in its legal validity and in reference to its practical disciplinary meaning—can only be provisional, characterized as it is by a theological discussion which is far from finished.”⁶³

During the 2001 International Synod of Bishops a number of interventions referred to the need for communion and cooperation specifically with regard to episcopal conferences. Archbishop Orlando B. Quevedo, president of the Episcopal Conference of the Philippines, suggested that “a relation between the Roman Curia and the episcopal conferences be characterized by co-responsibility, consultation, mutual trust and charity.”⁶⁴ Similar opinions were expressed by French, German, and Hispanic language groups. In a slightly different vein Cardinal William Keeler of Baltimore suggested that “whenever the Holy See consulted widely with episcopal conferences prior to issuing a document, there was much greater understanding by the bishops of the doctrine to be taught and greater effectiveness in supporting it once it had been promulgated.”⁶⁵ But the most forceful witness was that of Archbishop Weisgerber of Winnipeg, Canada, the president of the Canadian Catholic Conference of Bishops. Speaking in the name of whole Canadian episcopate, the Archbishop said that “communion involves mutual recognition and respect, confidence and trust, openness and reciprocal communication.”⁶⁶ Archbishop Weisgerber continued: “Due to historical developments, there is an imbalance in the exercise of primacy and collegiality . . . Today the Catholics of Canada think that official Catholic teaching comes from a centralized level of the Church, and our responsibility as bishops is simply to apply it. Whenever the pope promotes my collaboration as essential to communion, the people of my diocese have a better appreciation of my ministry as well.”⁶⁷ In particular the Archbishop referred to the document *Liturgiam authenticam*, which blurred the competence of territorial or language groupings of bishops for sacred texts and translations, blurred in such a way that their powers are effectively canceled. Specifically, Archbishop Weisgerber said

each bishop exercises in his respective church. This personal and inalienable role of the bishop is clearly affirmed as incapable of being delegated to anyone else, not even to the conference of bishops, which is not an intermediating subject between the bishops and the college of bishops” (*Origins* 20 [1990] 355).

⁶³ “Zur Theologie und Praxis” 46.

⁶⁴ As reported in the Vatican News Service *Zenit*, October 16, 2001.

⁶⁵ “Bishops’ Conferences: Servants of Communion between the Local and the Universal Church,” *Origins* 31 (October 11, 2001) 305–6.

⁶⁶ “Balancing Primacy and Collegiality,” *Origins* 31 (October 18, 2001) 331.

⁶⁷ *Ibid.*

“the Canadian Conference of Catholic Bishops takes very seriously the responsibility given us by the Second Vatican Council for implementing the translation and adaptation of liturgical texts.”⁶⁸ Finally he urged: “Boldness and creativity are needed in constantly examining the structures and the instruments of collegiality.”⁶⁹

Beyond the question of episcopal conferences there is still the much more basic question about the possibility of regional and continental instances of gatherings of bishops, coming between the level of the diocese and the universal level of the office of Peter. Kasper asks whether the metropolitan groups (provinces of churches) should not again be filled with new life. In view of the increasing complexity and differentiation in a world increasingly one, does not such an exercise of regional episcopacy make sense?

Appointment of Bishops: Cooperation Between the Local Church and Rome

From the question of episcopal conferences Kasper moves to the appointment of bishops, in which, he thinks they should have a part. Kasper mentions what is widely known, that the freedom the pope has today in appointing of bishops developed both slowly and relatively late. “The practice corresponds to neither that of the ancient church nor that of the church of the middle ages.”⁷⁰ Even the present Canon Law recognizes the possibility of an election of a bishop with the consequent confirmation by the pope (Canon 377 par. 1). Arguing from the papal primacy of jurisdiction, Kasper holds that the pope has the right to the final decision, but primacy does not impel the right to free choice by the pope. Opposed to such extensive freedom are the declarations of Celestine I (d. 432) and Leo the Great (d. 461) about naming bishops against the will of the pertinent local church. Such papal declarations found their way into canonical collections of the Middle Ages.⁷¹

Kasper has concrete suggestions regarding the election of bishops based on the actual relations in which a bishop stands: the bishop stands in a local church, in the appropriate episcopal conference, and in the universal Church. “Both the historical situation and the pastoral necessities dictate a combination of these elements in the choosing of a bishop: namely, cooperation in a way that recognizes the right of the local church to recommend a candidate, the place of the diocese in the province of the church, or more precisely, in the episcopal conference, and lastly the decision of Rome in

⁶⁸ Ibid.

⁷⁰ “Zur Theologie und Praxis” 46.

⁶⁹ Ibid. 332.

⁷¹ Ibid.

the form of a confirmation, which, in certain cases, could also be a veto.”⁷² Kasper demonstrates how ecclesiology should determine procedures.

The Bishop’s Pastoral Responsibility in Leading His Diocese

From the larger theological context of what preceded it is clear that Kasper recognizes the pope has undisputed rights to jurisdiction over the universal Church, rights however that do not cancel out the rights and responsibility of the local bishop. But, because the universal Church and the local church exist simultaneously in the same place, the proper responsibility of the local bishop in governing his diocese can sometimes be obscured. However, Vatican II made progress in restoring the local church to its proper place. During the period previous to the council this local responsibility had been whittled away so that in some cases it was replaced by the universal Church. Certain cases were reserved to the Holy See. What belonged by right to the local bishop was granted as a concession by the Holy See. Kasper recognizes that certain cases involving doctrine and discipline need to be reserved to the authority having universal jurisdiction, namely the Holy See. Such reservations have their own meaning. This is not in question. That apart, one must say that basically the bishop already has all of the rights he needs in order to exercise his office of shepherd; he does not need to have his rights conceded to him.

But Kasper doubts the necessity, in view of the cultural pluralism in the world, to have pastoral questions determined in all of their details in a binding way by the universal Church, so that factually no room to maneuver remains to the individual bishop as he seeks a pastoral solution appropriate to the specific conditions of his diocese, conditions he alone knows in their particularities. This question comes to mind in view of the document of the CDF “On the Reception of Communion for the Faithful Who Have Divorced and Remarried” (1994),⁷³ as also in the case of the many small determinations of the “Instruction on Some Questions Concerning the Cooperation of Laity in the Ministry of the Priest” (1997),⁷⁴ even though one agrees with the basic concerns of this instruction.

If there is not a certain flexibility given in the concrete application of the universal discipline, then the individual pastor will not concern himself with the application of universal norms he considers cannot be put into practice; when this happens then one is rightly faced with a pastoral practice out of control. Centralism, in this case, effects exactly the opposite of what is intended and lessens the authority of both pope and the bishops. Then the

⁷² Ibid. 47.

⁷³ AAS 86 (1994) 974–79; *Origins* 24 (October 27, 1994) 337–41.

⁷⁴ AAS 89 (1997) 852–77; *Origins* 27 (November 27, 1997) 409–10.

bishop must helplessly stand by and see the continuation of a “pastoral practice from below,” which is full of problems. The local bishop is hindered in finding appropriate solutions in his diocese on his own pastoral responsibility by his loyalty to Rome and by loyalty to the universal detailed legislation which issues from the Curia. In this perspective, fewer documents and individual instructions from Rome would increase the authority of the office of Peter in the really basic issues touching the unity of the Church.⁷⁵

In concluding, Kasper reflects on the meaning for the pastoral practice of a bishop in a world experiencing two opposing movements. On the one hand, the ecumenical and technological globalization efforts are pushing the world toward the global village. But there is a contrary movement in which all things are being westernized, issuing in a new form of the traditional identities of a plethora of cultures, resulting in a conflict of cultures. The forces impelling toward the unity of the global village are being resisted by the clash of cultures. A peaceful future is only possible when the unity of the multiplicity of cultures is achieved. Such a unity in multiplicity is also of great importance for the Church. When the faith and the essence of the Church is inculturated into the multiplicity of cultures then evangelization is possible. In carrying out the mandate to evangelize in the present situation of unity in the multiplicity of cultures the Church will grapple anew with its own unity in multiplicity.

Vatican II posed this question, but did not give a clear answer. John Paul II in his encyclical *Ut unum sint* gave the impulse to take up the question in an ecumenical context. Kasper contends that the office of Peter can only rightly exercise its ministry of unity, when it understands itself as a strengthening of the authority of the bishops, and in this way realize the multiplicity in unity. Once the role of Peter is grasped anew in our new situation, then the place of the bishop as the principle of unity of his own specific local church, and at the same time as the link-member to the unity in and with the universal Church is placed on the agenda in a new way. This demands not a once-for-all-time answer, but an expansive and continuing answer, which carries the future through to a new reformulation of Peter's office and the bishop's office appropriate for the third millennium.⁷⁶

⁷⁵ “Zur Theologie und Praxis” 47–48.

⁷⁶ Ibid. 48.