

# Did Paul VI “Illegally” Promulgate the New Mass?

(2000)

by Rev. Anthony Cekada

**The Society of St. Pius X and  
A popular traditionalist myth.**

MOST CATHOLICS who abandon the New Mass do so because they find it evil, irreverent or non-Catholic.

Instinctively, though, the Catholic knows that the Church of Christ *cannot* give us something evil, since the Church would then be leading us to hell, rather than heaven.

Catholic theologians, indeed, teach that the Church’s universal disciplinary laws, including laws governing the sacred liturgy, are *infallible*. Here is a typical explanation from the theologian Herrmann:

“The Church is infallible in her general discipline. By the term general discipline is understood the laws and practices which belong to the external ordering of the whole Church. Such things would be those which concern either external worship, such as *liturgy and rubrics*, or the *administration of the sacraments*...

“If she [the Church] were able to prescribe or command or tolerate in her discipline something against faith and morals, or something which tended to the detriment of the Church or to the *harm of the faithful*, she would turn away from her divine mission, which would be impossible.”<sup>1</sup>

Sooner or later, then, the Catholic faces a dilemma: The New Mass is evil, but those who commanded us to use it (Paul VI, *et al.*) supposedly possessed the very authority of Christ. What should one do? Accept evil because of authority, or reject authority because of evil? Choose sacrilege, or choose schism?

How does a Catholic resolve this seeming dilemma — that Church authority commands evil?

Over the years, essentially only two explanations have been proposed:

## **1. Paul VI, who promulgated the New Mass, lost papal authority.**

The argument is as follows: Once we recognize that the New Mass is evil, or harms souls, or destroys the faith, we therefore also implicitly recognize something else: Paul VI, who promulgated (imposed) this evil rite in 1969, *could not have possessed true authority* in the Church when he did so. He somehow lost papal authority, if indeed he possessed it in the first place.

How could this have come about? Defection from the faith, according to the teaching of at least two popes (Innocent III and

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1. P. Herrmann, *Institutiones Theol. Dogm.*, Rome: 1904, 1:258. My emphasis. Other theologians such as Van Noort, Dorsch, Schultes, Zubizarreta, Irragui and Salaveri explain the teaching much the same way. For full quotes and citations, see my study *Traditionalists, Infallibility and the Pope*.

Paul IV) and nearly all Catholic canonists and theologians, brings about automatic loss of papal office.

The evil of the New Mass, according to this argument, is like a giant neon arrow pointing back at the post-Vatican II popes and flashing the words: “No papal authority. Defectors from Catholic Faith.”

## **2. Paul VI possessed papal authority, but did not promulgate the New Mass lawfully.**

This position argues that Paul VI *did not follow the correct legal forms* when he promulgated the New Mass. The New Mass, then, is not *really* a universal law, so we are not obliged to obey the legislation which supposedly imposed it; thus, the infallibility of the Church is “saved.”

The theory has been extremely popular in the traditionalist movement since its beginnings in the 1960s.

This, it must be said, is the have-your-cake-and-eat-it-too argument. It allows you to “acknowledge” the pope, but ignore his laws, denounce his New Mass, and keep the old Mass. It reassures simple souls fearful of schism that they are, despite appearances, still “loyal to the Holy Father.”

I have treated the first position in my study *Traditionalists, Infallibility and the Pope*.<sup>2</sup> Here I will discuss the second position, and outline the considerable difficulties it presents as regards logic, church authority and canon law.

## **SSPX and “Illegal Promulgation”**

While many traditional Catholics adhere to the position that the New Mass was illegally promulgated, advocates are especially numerous among the members and supporters of Archbishop Marcel Lefebvre’s Society of St. Pius X (SSPX).

The theory fits neatly into what one can only term the Society’s Jansenist/Gallican concept of the papacy: The pope is “recognized,” but his laws and teachings must be “sifted.” You get all the sentimental benefits of theoretically *having* a pope, but none of the practical inconveniences of actually *obeying* him.

(Over the years the position’s emotional appeal for the laity has meant a fundraising bonanza for SSPX. This old Gallican goose really lays the golden egg.)

## **The Standard Arguments**

For an explanation of the second position, therefore, we turn to two articles by SSPX’s former U.S. District Superior, the Rev. François Laisney.

Father Laisney characterizes the New Mass as “evil in itself,”<sup>3</sup> and a danger to the Catholic faith.<sup>4</sup> He acknowledges in a general sense the principle upon which the first position is based — the Church cannot give a universal law that is evil or harmful to souls.

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2. For a free copy, contact: St. Gertrude the Great Church, 11144 Reading Road, Cincinnati OH 45241, 513.769.5211, [www.sgg.org](http://www.sgg.org)

3. “Where Is the True Catholic Faith? Is the Novus Ordo Missae Evil?” *Angelus* 20 (March 1997) 38. Of course, it is hardly necessary to read the article in order to discover how SSPX answers the *first* question...

4. “Was the Perpetual Indult Accorded by St. Pius V Abrogated?” *Angelus* 22 (December 1999) 30–31.

But, he argues, “the full strength of papal authority *was not engaged* in the promulgation of the New Mass,”<sup>5</sup> and that “Pope Paul VI did not oblige the use of his [New] Mass, but only permitted it... There is no clear order, command, or precept imposing it on any priest!”<sup>6</sup>

He makes following arguments — they are typical of those who hold this position — against the legality of Paul VI’s promulgation of the New Mass:

- “The *Novus Ordo Missae* was not promulgated according to the proper canonical form by the Sacred Congregation of Rites.”

- “A decree of the Sacred Congregation of Rites imposing the new Mass is not in the *Acta Apostolicae Sedis* (the official organ of the Catholic Church announcing new ordinances over the Church).”

- “In later editions of the New Mass [this 1969 Decree] is replaced by a second decree (March 26, 1970) only *permitting* the use of the New Mass. This second decree which only permits — not orders — its use is in the *Acta Apostolicae Sedis*.”

- In a 1971 Notification on the New Mass from the Congregation for Divine Worship, “one cannot find in this text any clear prohibition for any other priest to use the traditional Mass nor an obligation to celebrate only the New Mass.”

- Another Notification in 1974, says Father Laisney, *does* impose an obligation — but it does not appear in the *Acta*, and does not say Paul VI approved it, so it has no binding force.

- “Confused legislation” characterizes these reforms. “In this one sees precisely the assistance of the Holy Ghost to the Church, because He did not allow the modernists to properly promulgate their reforms with perfect legal force.”

Father Laisney then presents his conclusion: “The *Novus Ordo Missae* was promulgated by Pope Paul VI with so many deficiencies and especially **lacking even the proper juridical language to oblige** all priests and faithful, that it **cannot claim to be covered by the infallibility of the Pope in universal laws**”<sup>7</sup>

To assess Father Laisney’s claims, we will assume, as Father Laisney does, that Paul VI was indeed a true pope who, as such, possessed full legislative authority over the Church. This will allow us to hold Father to the objective criteria found in canon law which would flow from that assumption.

We will then demonstrate, by examining general principles of canon law and the specific legislative texts at issue, that Father Laisney’s arguments and conclusions are false on every point.

## What is “Promulgation”?

To “promulgate” a law means nothing more than to announce it publicly.

The essence of promulgation is the **public proposal** of a law to the community by the lawmaker himself, or on his authority, **so that the will of the lawmaker to impose an obligation can become known** to his subjects.<sup>8</sup>

The Code of Canon Law simply says: “Laws enacted by the Holy See are promulgated by their publication in the official

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5 “Where is...?” 34. His emphasis.

6 “Where is...?” 35.

7. Where is...?” 35-36. My emphasis.

8. M. Lohmuller, *Promulgation of Law* (Washington: CUA Press 1947), 4.

commentary *Acta Apostolicae Sedis*, unless in particular cases another mode of promulgation is prescribed.”<sup>9</sup>

This is all that the Code requires and it suffices to make known the will of the legislator, the pope.

Unless another provision has been made in a particular law itself, a law becomes effective (binds) three months after its official publication date in the *Acta*.<sup>10</sup> The intervening period before the effective date is called the *vacatio legis*.

## A Missing Decree?

The New Mass (*Novus Ordo Missae*) appeared in stages. The Vatican first published the new Ordinary in a small booklet in 1969, along with the General Instruction on the Roman Missal (a doctrinal and rubrical preface).<sup>11</sup>

In the front of this booklet appear Paul VI’s lengthy Apostolic Constitution on the New Mass, *Missale Romanum*, and the 6 April 1969 Decree *Ordine Missae* from the Congregation of Sacred Rites (Consilium).

The Decree, signed by Benno Cardinal Gut, states that Paul VI approved the accompanying Order of Mass and that the Congregation was promulgating it by his special mandate. It set 30 November 1969 as the effective date for the legislation.

For reasons unknown, however, this Decree was never published in the *Acta*. And so Fr. Laisney and countless others contend this omission means that the New Mass was, therefore, never “duly promulgated,” and thus obliges no one.

But the argument over this bureaucratic slip is a red herring. The key question in canon law about the promulgation of any law is the *will of the legislator*. In this case, *did Paul VI manifest his will to impose on his subjects an obligation* (i.e the New Mass)? And moreover, did he do so in the *Acta*?

## Paul VI’s Apostolic Constitution.

The question is easily answered. In the 30 April 1969 *Acta Apostolicae Sedis* we find the Apostolic Constitution *Missale Romanum*, bearing Paul VI’s signature. Its heading: “Apostolic Constitution. By which the Roman Missal, restored by decree of Vatican Ecumenical Council II, is **promulgated**. Paul, Bishop, Servant of the Servants of God, for an Everlasting Memorial.”<sup>12</sup>

The legislation, obviously, then meets the simple canonical norm for promulgation. The Supreme Legislator needs no Decree from a Cardinal for his law to “take.” The New Mass is promulgated, and the law is binding.

In the text of the Constitution, moreover, Paul VI makes it abundantly clear that his will is to impose the obligation of a law on his subjects. Note in particular his language in the following passages:

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9. Canon 9. “Leges ab Apostolica Sede latae promulgantur per editionem in *Actorum Apostolicae Sedis commentario officiali*, nisi in casibus particularibus alius promulgandi modus fuerit praescriptus.”

10. Canon 9. “Et vim suam exerunt tantum expletis tribus mensibus a die qui *Actorum* numero appositus est, nisi ex natura rei illico ligent aut in ipsa lege brevior vel longior vacatio specialiter et expresse fuerit statuta.”

11. *Ordo Missae*: Editio Typica (Typis Polyglottis Vaticanis: 1969). The new order of Scripture readings appeared in May 1969. The full Missal, containing the new Orations for Sundays, seasons and feasts, would appear only in 1970.

12. AAS 61 (1969) 217–222.

- The General Instruction preceding the New Order of Mass **“imposes new rules** for celebrating the Eucharistic sacrifice.”<sup>13</sup>
- **“We have decreed** that three new Canons be added to this Prayer [the Roman Canon].”<sup>14</sup>
- **“We have ordered** that the words of the Lord be one and the same formula in each Canon.”<sup>15</sup>
- **“And so, it is Our will** that these words be thus said in every Eucharistic Prayer.”<sup>16</sup>
- **“All of which things we have prescribed** by this, Our Constitution, shall begin to take effect from 30 November of this year.”<sup>17</sup>
- **“It is Our will** that these laws and prescriptions be, and they shall be, firm and effective now and in the future.”<sup>18</sup>

The standard Latin canonical terms a pope customarily employs to make a law are all present here: *normae, praescripta, statuta, proponimus, statuimus, jussimus, volumus, praescripsimus*, etc.

### Same Terms as *Quo Primum*

This language is important for another reason: Some of it also appears in *Quo Primum*, the 1570 Bull by which Pope St. Pius V promulgated the Tridentine Missal.

Father Laisney, like many others, claims that Paul VI’s legislation did not impose an obligation. Rather, Paul VI merely “presented” or “permitted” the New Mass.<sup>19</sup>

This is false. Both *Quo Primum* and Paul VI use identical “lawmaking” terms in key passages: *norma, statuimus* and *volumus*.

The Benedictine canonist Oppenheim says these are “preceptive” words that “clearly indicate a strict obligation.”<sup>20</sup>

If such words made Pius V’s *Quo Primum* obligatory, they did the same for Paul VI’s *Missale Romanum*.

### “It is Our Will...”

Earlier, we quoted the following passage as evidence that Paul VI intended to promulgate a law to bind his subjects:

**“It is Our will [volumus] that** these laws and prescriptions be, and they shall be, firm and effective now and in the future.”<sup>21</sup>

The first English translations rendered the Latin verb *volumus* as “We wish that.” Some priests and writers then argued that Paul VI was only wistfully “wishing” that Catholics would employ the New Mass — rather like wishing upon a star.

13 “...novas normas...proponi.” The verb employed (“proponi”) has the post-classical sense of “to impose,” as in “impose a law.” See Lewis & Short, *A New Latin Dictionary* 2nd ed. (New York: 1907) 1471, col. 2.

14 “ut eidem Precactioni tres novi Canones adderentur statuimus.” “Statuo” with “ut” or “ne” has the sense of “decree, order, prescribe.” See Lewis & Short, 1753, col. 3.

15 “jussimus.”

16 “volumus.”

17 “Quae Constitutione hac Nostra praescripsimus vigere incipient.”

18 “Nostra haec autem statuta et praescripta nunc et in posterum firma et efficacia esse et fore volumus.”

19 “Perpetual Indult,” 30.

20 P. Oppenheim, *Tractatus de Iure Liturgico* (Turin: Marietti 1939) 2:56. “verba autem... ‘statuit,’... ‘praecepit,’ ‘jussit,’ et similia, manifeste strictam obligationem denotat.” (His emphasis.)

21. Lest someone claim that it is unclear what this passage refers to, note that among the “statuta et praescripta” preceding it were the “new rules imposed” by the General Instruction (“novas normas... proponi,” see fn. above) for the celebration of Mass.

But in *Quo Primum*, St. Pius V uses the *identical verb* to impose the Tridentine Missal:

“It is Our will [*volumus*], however — and We decree by that same authority — that, after the publication of the Missal and this, Our Constitution, priests present in the Roman Curia... be obliged to chant or read Mass according to this Missal.”<sup>22</sup>

In both cases, the verb *volumus* expresses the essence of Church law-making: the legislator’s will to impose an obligation on his subjects.<sup>23</sup>

## Paul VI Revokes *Quo Primum*

Father Laisney trots out yet another old canard:<sup>24</sup> the tale that Paul VI did *not* abrogate (revoke) St. Pius V’s Bull *Quo Primum*.<sup>25</sup>

Advocates of this position sometimes cite a passage in the Code which states that “a more recent law given by competent authority, abrogates a former law, if it *expressly* orders abrogation.”<sup>26</sup>

Paul VI, the argument goes, did not mention *Quo Primum* by name, so he did not expressly abrogate it. *Quo Primum*, then, never lost its force, and we are all still free to celebrate the old Mass.<sup>27</sup>

But proponents of this notion are engaging in wishful thinking. *Expressly*, in the canon quoted above, does not just mean “by name.”<sup>28</sup> A legislator may “expressly” revoke a law in another way — and this is what occurred here, when Paul VI, after he gave his *volumus* to the New Mass, added the following clause:

“...**notwithstanding**, to the extent necessary, the **Apostolic Constitutions and Ordinances of Our Predecessors**, and other prescriptions, even those worthy of special mention and amendment.”<sup>29</sup>

This clause *expressly* abrogates *Quo Primum*.

First, the Bull *Quo Primum* falls into the category of the most solemn type of pontifical legal Act — a Papal or Apostolic Constitution.<sup>30</sup> And in the passage quoted from Paul VI’s Apostolic

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22. “Volumus autem et eadem auctoritate decernimus, ut post hujus Nostrae constitutionis, ac Missalis editionem, qui in Romana adsunt Curia Presbyteri, post mensem... juxta illud Missam decantare, vel legere teneantur.”

23. See Lewis & Short, *A New Latin Dictionary*, 2004, col. 1; 2006, col. 2. “of the wishes of those that have a right to command... it is my will.”

24. Canard = a hoax. It’s also French for “duck” — highly appropriate here, because this particular duck (like the Gallican goose) never permanently “goes south.”

25. “Perpetual Indult,” 28-29.

26. Canon 22. “Lex posterior, a competenti auctoritate lata, obrogat priori, si id expresse edicat, aut sit illi directe contraria, aut totam de integro ordinet legis prioris materiam; sed firmo praescripto...” (My emphasis.) The translation is Fr. O’Hara’s in the Cicognani commentary.

27. The discussion often centered around various technical canonical terms — abrogation, obrogation, derogation and subrogation. Participants usually didn’t have a clue as to what they were talking about. But this was somewhat understandable: Even expert commentators on the Code are not always consistent with these terms.

28. If the legislator’s intent had been such, he could have used the Latin term for “by name” (*nominatim*) instead of the actual term “expressly” (*expresse*).

29. “... non obstantibus, quatenus opus sit, Constitutionibus et Ordinationibus Apostolicis a Decessoribus Nostris editis, ceterisque praescriptionibus etiam peculiari mentione et derogatione dignis.”

30. See A. Cicognani, *Canon Law*, 2nd ed. (Westminster MD: Newman 1934) 81ff. “Papal Constitutions are Pontifical Acts which have the following characteristics: (1) they come immediately from the Supreme Pontiff, (2) they are presented motu proprio, (3) the solemn form of a Bull is attached to them, (4) they deal with

Constitution, he specifically revokes the “**Apostolic Constitutions**” of his predecessors.

Second, in order to revoke a law *expressly*, a pope is not required to mention it by name. Express revocation also takes place, says the canonist Cicognani, if the legislator inserts “abrogatory or derogatory clauses, as is common in decrees, rescripts, and other pontifical acts: *notwithstanding anything to the contrary, notwithstanding in any respect anything to the contrary, though worthy of special mention.*”<sup>31</sup>

Paul VI, in other words, used the *exact* type of language required to expressly revoke a prior law.

And in so doing, Paul VI again used some of the same phrases St. Pius V employed in *Quo Primum* to revoke liturgical laws of *his* predecessors:

“**Notwithstanding preceding Apostolic constitutions and ordinances... and whatever laws and customs there be to the contrary.**”<sup>32</sup>

Again, if this language worked in 1570, it also worked in 1969.<sup>33</sup>

In light of all the foregoing, one cannot continue to promote the myth that Paul VI’s legislation did not expressly abrogate *Quo Primum*.

As for the other mistaken notions circulated about *Quo Primum*, these will be dealt with in a subsequent article.

## The Obvious Conclusion

The technical law-making language, enumeration of specific laws, the setting of an effective date, language revoking his predecessors’ Apostolic Constitutions, and the legislator’s explicit expression of his will to impose these laws — nothing, it would seem, could be clearer. Paul VI is establishing a law here.

All this is lost on Father Laisney. “There is no clear order, command, or precept imposing it on any priest,” he says, adding that Paul VI “does not say” what a priest should do on the effective date.<sup>34</sup>

Ah, well — if the language of Paul VI’s Constitution is not sufficiently “clear,” we turn to subsequent legislation published in the *Acta Apostolicae Sedis*.

Once again, Paul VI clearly manifests his will — not only to impose his New Mass, but also quite specifically to **forbid** the old rite.

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matters of greater importance, namely, the welfare of the Church or the greater part thereof.”

31. *Canon Law*, 629. (His emphasis.)

32. *Non obstantibus praemissis, ac constitutionibus, et ordinationibus Apostolicis... statutis et consuetudinibus contrariis quibuscumque.*”

33. In the 1980s, SSPX circulated a classic “Roman whispers” story: a group of canonists, convoked by the Vatican, had supposedly studied the legal status of the old Mass, and concluded that *Quo Primum* had never been abrogated. Even if true, the point is moot: 1) The legislator issued no authoritative and interpretive decree to that effect. 2) Abrogation is the only conclusion possible after examining the decrees the Vatican did promulgate. 3) The legislator (the modernist Vatican) allows the traditional Mass only by an indult — a faculty or favor granted temporarily, either contrary to the law or outside the law. If the old law were not abrogated, an indult would be unnecessary.

34. ““Where is...?” 35, and fn.

## The October 1969 Instruction

The Instruction *Constitutione Apostolica* (20 October 1969) bears the title: “On gradually implementing the Apostolic Constitution *Missale Romanum*.”<sup>35</sup>

The general purpose of the document was to resolve certain practical problems: the bishops’ conferences were not able to complete vernacular translations of the new rite in time for the 30 November date Paul VI had prescribed as the effective date for the New Mass.

The Instruction begins by enumerating the three parts of the new Missal already approved by Paul VI: the *Ordo Missae*, the General Instruction and the new Lectionary, and then states:

“The foregoing documents **decree** that, from 30 November of this year, the First Sunday of Advent, **the new rite and the new text be used.**”<sup>36</sup>

To meet the practical problems this posed, the Congregation for Divine Worship, “**with the approval of the Supreme Pontiff, establishes the following rules.**”<sup>37</sup>

Among the various regulations are the following:

- “The individual conferences of bishops shall also **establish the day** from which (except for mentioned cases in paragraphs 19-20) it shall become **obligatory to employ** the [new] Order of Mass. This date, however, shall not be deferred beyond 28 November 1971.”<sup>38</sup>

- “The individual conferences of bishops shall **decree** the day from which use of the texts of the new Roman Missal (except for mentioned cases in paragraphs 19-20) **shall be prescribed.**”<sup>39</sup>

The exceptions were for older priests who offered private Mass and who experienced difficulties with the new texts or rites. With permission of the Ordinary they could continue to use the older rite.

The Instruction ends with the following statement:

“On 18 October 1969 the Supreme Pontiff, Pope Paul VI, **approved** this Instruction, **ordered it to become public law**, so that it be faithfully observed by all those to whom it applies.”<sup>40</sup>

Here once again, we find the “preceptive” words of church lawmaking which, as Oppenheim says, clearly indicate a strict obligation — in this case, to employ the New Order of Mass no later than 28 November 1971.

## The March 1970 Decree

The Decree *Celebrationis Eucharistiae* (26 March 1970) is entitled: “The new edition of the Roman Missal is promulgated and declared the *editio typica*.”<sup>41</sup>

This Decree accompanied the publication of the new Missal of Paul VI, which contained the previously-approved New Or-

35. AAS 61 (1969) 749–753. “gradatim ad effectum deducenda.”

36. “statuitur ut... adhibeantur.”

37. “approbante Summo Pontifice, eas quae sequuntur statuit normas.”

38. “diem...constituant.” “necesse erit usurpare.”

39. “decernant.” “adhiberi jubebuntur.” Lest someone claim these paragraphs mean that bishops’ conferences, not Paul VI, “promulgated” the New Mass, we point out that the provisions merely delegate the power to extend the *vacatio legis* — again, the period between which a law is promulgated and when it takes actual effect.

40. “Praesentem Instructionem Summus Pontifex Paulus Pp. VI die 18 mensis octobris 1969 approbavit, et publici juris fieri iussit, ut ab omnibus ad quos spectat accurate servetur.”

41. AAS 62 (1970), 554.



der of Mass, a revised General Instruction, and all the new Orations for the whole liturgical year.

It, too, contains the preceptive language of papal law-making:

“This Sacred Congregation for Divine Worship, **by the mandate of the same Supreme Pontiff, promulgates** this new edition of the Roman Missal, prepared according to the decrees of Vatican II, and declares it the typical edition.”<sup>42</sup>

Need one belabor the obvious? The New Missal is the law, by the command of Paul VI.

### The June 1971 Notification

The Notification *Instructione de Constitutione* (14 June 1971) is entitled “On the use and the beginning of the **obligation** of the new Roman Missal, [Breviary], and Calendar.”<sup>43</sup>

This Notification, like the October 1969 Instruction, addresses some of the practical difficulties which delayed implementing the new liturgical legislation.

“Having attentively considered these things, the Sacred Congregation for Divine Worship, **with the approval of the Supreme Pontiff, lays down the following rules** on the use of the Roman Missal.”<sup>44</sup>

It orders that in any given country, “from the day on which the translated texts **must be used** for celebrations in the vernacular, **only the revised form of the Mass** and [the breviary] **will be allowed, even for those who continue to use Latin.**”<sup>45</sup>

The plain sense of the text is that the new rite *must* be used, the traditional rite is *forbidden*; the pope wills it, and all must obey.

### The October 1974 Notification

Finally, there is the Notification *Conferentia Episcopali* (28 October 1974).<sup>46</sup>

This specifies again that when a bishops’ conference decrees that a translation of the new rite is obligatory, “Mass, whether in Latin or the vernacular, **may be celebrated lawfully only** according to the rite of the Roman Missal promulgated 3 April 1969 by authority of Pope Paul VI.”<sup>47</sup> The emphasis on the word “only” (*tantummodo*) is found in the original.

Ordinaries must ensure that all priests and people of the Roman Rite, “**notwithstanding the pretense of any custom, even immemorial custom**, duly accept the Order of Mass in the Roman Missal.”<sup>48</sup>

Again, it is obvious that the New Mass has been duly promulgated and is obligatory: there are no exceptions.

42. “de mandato ejusdem Summi Pontificis... promulgat.”

43. AAS 63 (1971) 712–715.

44. “approbante Summo Pontifice, quae sequuntur statuit normas.” In English, “norm” has a weak sense of a mere idealized guideline. But in Latin, “norma” means a law, a rule, a precept. Thus, first Book of the Code of Canon Law is denominated “Normae generales.”

45. “assumi debebunt, tum iis etiam qui lingua latina uti pergunt, instaurata tantum Missae et Liturgiae Horarum forma adhibenda erit.”

46. *Notitiae* 10 (1974), 353.

47. “tunc sive lingua latina sive lingua vernacula Missam celebrare licet *tantummodo* juxta ritum Missalis Romani auctoritate Pauli VI promulgati, die 3 mensis Aprilis 1969.” Original emphasis.

48. “et nonobstante praetextu cujusvis consuetudinis etiam immemorabilis.”

Father Laisney admits that this Notification lays down an obligation to celebrate the New Mass. However, he dismisses its legal effect because it did not appear in *Acta Apostolicae Sedis* and because it does not state it was ratified by the Sovereign Pontiff.<sup>49</sup>

Father Laisney, alas, has misunderstood yet another principle of the Code regarding promulgation.

First, the Notification is not a *new law*. It is what canonists term an “authoritative and declarative interpretation” of a previous law. This, according to the Code, “merely declares the meaning of the words of the law that were certain in themselves.” In such a case: “The interpretation need not be promulgated, and has retroactive effect.”<sup>50</sup> It has force, in other words, *without* publication in the *Acta*.

And second, even though, strictly speaking, such a pronouncement would not need the express consent of the pope, Paul VI did nevertheless approve the final text of the Notification.<sup>51</sup>

## No Immemorial Custom

The Notification addresses an interesting side issue: A number of traditionalist writers who insisted that they recognized the authority of Paul VI nevertheless claimed that “immemorial custom” allowed them to retain the old rite and reject Paul VI’s New Mass.

On the face of it, this assertion makes no sense. Priests celebrated the traditional Mass because a Pope promulgated a written law prescribing it. Custom is a mere usage or unwritten law, which can be in accord with, contrary to, or beyond the written law.

The Notification, in any case, states that the New Mass is obligatory “**notwithstanding the pretense of any custom, even immemorial custom.**”

According to the Code, “a law does not revoke centenary or immemorial customs, unless it makes express mention of them.”<sup>52</sup>

But canonists state that a “notwithstanding” (*nonobstante*) clause like the foregoing does indeed *expressly* revoke an immemorial custom.<sup>53</sup> So, even if one *could* make a case that the old Mass constituted an immemorial custom, the Notification duly revoked it — dismissing the notion, moreover, as a “pretense.”

But this merely brings us to what is in fact the *real* issue behind the dispute over whether Paul VI “illegally” promulgated the *Novus Ordo*:

## Who Interprets a Pope’s Laws?

For SSPX and many others, alas, the answer to this question is “anyone but the pope.”

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49 “Where is...?” 36.

50. Canon 17.2. “et si verba legis in se certa declaret tantum, promulgatione non eget et valet retrorsum.”

51. A Bugnini, *La Riforma Liturgica (1948–1975)*, (Rome: CLV-Edizioni Liturgiche 1983) 298: “Il testo definitivo fu approvato dal Santo Padre, il 28 ottobre 1974, con le parole “Stabat bene. P.”

52. Canon 30. “...consuetudo contra legem vel praeter legem per contrariam consuetudinem aut legem revocatur; nisi expressam de iisdem mentionem fecerit, lex non revocat consuetudines centenarias aut immemorabiles.”

53. See Cicognani, 662-3.

Father Laisney informs us, for instance, that Paul VI did not engage “the same plenitude of power” in his Apostolic Constitution as Pius V did in his. Paul VI did not mention the “nature of an obligation,” its “subject,” its “gravity.”<sup>54</sup>

Father Laisney’s argument is footnote-free. So, we are not able to identify the canonists who propose these distinctions and criteria — to which each Catholic, lay or clerical, may evidently appeal in order to decide for himself whether he is bound by an Apostolic Constitution signed by the Supreme Pontiff of the Universal Church.

The swarms of expert canon lawyers in the Roman Curia who compose papal decrees could not (we are expected to believe) draft a legal text adequate to the simple juridical task of making a new rite of Mass obligatory. And this, mind you, not even after *five* attempts — an Apostolic Constitution and four (count ‘em!) Curial pronouncements implementing the Constitution.

Instead, lay controversialists and lower clergy throughout the world are free to judge the Supreme Legislator to be juridically inept in promulgating his own laws, and then to refuse him submission for decades on end.

### **Canon-Law Protestants?**

Father Laisney’s approach to a pope’s laws, and that of this theory’s other adherents is, in fact, “Canon-Law Protestantism” — interpret selected passages as you see fit, and no pope is ever going to tell *you* what they mean. And if you don’t find the magic formula that you have decided is “required” to compel your obedience, well, too bad for the Vicar of Christ on earth.

This is the mentality of sects — Jansenists, Gallicans, Feeneyites. Profess recognition of Christ’s Vicar in *word*, but refuse him submission in *deed* — such is the precise and classic definition of schism.

### **Or the Pope and His Curia?**

The Catholic approach to interpretation of papal laws, on the other hand, is succinctly stated in the Code:

“Laws are authoritatively *interpreted by the lawmaker* and his successor, and by those to whom the lawmaker has committed the power to interpret the laws.”<sup>55</sup>

Apart from the pope, who possesses this power to interpret his laws authoritatively? “The Sacred Congregations in matters proper to them,” says the canonist Coronata. Their interpretations are issued “in the manner of a law.”<sup>56</sup>

In case of the New Mass, Paul VI committed the power to interpret his new liturgical legislation to the Congregation for Divine Worship.

The Congregation issued three documents — an Instruction, a Decree, and a Notification — which clearly state that the original legislation promulgating the New Mass is binding.

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54. “Perpetual Indult,” 30-31.

55. Canon 17.1. “Leges authentice interpretatur legislator ejusve successor et in cui potestas interpretandi fuerit ab eisdem commissa”

56. M. Coronata, *Institutiones Juris Canonici* 4th ed. (Turin: Marietti 1950) 1:24: “Quis interpretari possit... per modum legis ecclesiasticae leges interpretantur: Romanus Pontifex, Sacrae Congregationes pro sua quaeque provincia.”

Such documents are classed among “authentic general interpretations” of the law,<sup>57</sup> and often generically referred to as “general decrees.” The Congregation then promulgated these three documents, as required by the Code, in the *Acta Apostolicae Sedis*.

One of these documents, the October 1969 Instruction, is of particular interest here. It names Paul VI’s Apostolic Constitution, the General Instruction on the Roman Missal, the New Order of Mass, the 6 April 1969 Decree, and the Order for the new Lectionary, and then states:

“The foregoing documents **decreed** that, from 30 November of this year, the First Sunday of Advent, **the new rite and the new text be used.**”<sup>58</sup>

Even if the initial legislation *had* been somehow defective or doubtful, this passage (and similar ones in the other documents) would cure the problem. It meets the Code’s criteria for giving a previously doubtful law an *authoritative* interpretation. The law-giver’s representative (the Congregation for Divine Worship) states that the earlier legislation did, in fact, “**decree... that the new rite and the new text be used.**”

Any doubt you may have had, then, is resolved. This authoritative interpretation, says the Code, “**has the same force as the law itself.**”<sup>59</sup>

You therefore consider yourself bound by the law, because those responsible for interpreting it *told* you so. You then submit to the pope’s law.

That, at least, is how a *real* Catholic — one for whom a pope is more than a cardboard wall decoration, or an empty phrase in the *Te Igitur* — is supposed to act.

## Not a Universal Law?

As we noted above, Father Laisney believed that the “legal deficiencies” he alleged existed with regard to the *Novus Ordo* prevented one from claiming it fell under the infallibility of universal laws.<sup>60</sup>

To this argument, the Rev. Peter Scott, Father Laisney’s successor as SSPX U.S. District Superior, added another twist.

In a written debate with the English writer, Michael Davies, Father Scott stated: “It would be a preposterous and intolerable insult to Eastern rite Catholics (many of whom are traditional) to claim [as Mr. Davies does] that ‘the Roman rite...is... equivalent to the universal Church,’ simply on account of numerical preponderance. A decree for the Roman Rite, even rightly promulgated, is not for the universal Church.”<sup>61</sup>

Others have made essentially the same argument: Paul VI’s legislation on the New Mass is not truly “universal,” because it does not apply to Eastern Rite Catholics.

Father Scott, alas, has confused some common technical terms in canon law.

Church law is indeed divided by *rite* into Western and Eastern, but this has nothing to do with the matter at hand.

57. See Abbo & Hannon, *The Sacred Canons* 2nd ed. (St. Louis: Herder 1960) 1:34.

58. “Praefatis autem documentis, statuitur ut... adhibeantur.”

59. Canon 17.2. “Interpretatio authentica, per modum legis exhibita, eandem vim habet ac lex ipsa.”

60. “Where is...?” 36.

61. “Debate over New Order Mass Status Continues,” *Remnant*, 31 May 1997, 1.

When a canonist calls a law “universal,” he is not referring to it applying in the Latin and Eastern rites simultaneously. Rather, he is referring to a law’s *extension*, i.e., the *territory* where it has force.

Thus a *particular* law binds only within a certain determined territory. A *universal* law, on the other hand, “*binds throughout the whole Christian world.*”<sup>62</sup>

The legislation promulgating the New Mass, obviously, was intended to be obligatory throughout the world.

The principle also applies to various Declarations, Directories, Instructions, Notifications, Replies, etc. of the Congregation of Sacred Rites (Divine Worship).

No one, says the canonist Oppenheim, doubts that all such decrees for the Universal Church (sometimes known collectively as “general decrees”) have the character of true law.<sup>63</sup> Indeed, “general decrees which are addressed to the universal Church (of the Roman Rite) *have the force of universal law.*”<sup>64</sup> According to a Decree of the Congregation of Sacred Rites, moreover, they possess the same authority as if they emanated directly from the Roman Pontiff himself.<sup>65</sup>

It is therefore impossible to deny that the liturgical legislation of Paul VI would qualify as universal disciplinary law.

## A Summary

After what we have presented concerning Paul VI’s legislation on the New Mass, we wish in conclusion to sum up what has been said, and then insist on one point in particular:<sup>66</sup>

We have examined the claim, put forth by Father Laisney and countless other traditionalist writers, that Paul VI imposed the *Novus Ordo* “illegally,” and we have demonstrated the following:

1. The purpose of promulgating a law is to manifest the lawmaker’s will to impose an obligation on his subjects.
2. In his Apostolic Constitution *Missale Romanum* Paul VI manifested his will to impose the New Mass as an obligation. This is evident in the document from:
  - a. At least six particular passages.
  - b. Standard lawmaking vocabulary of canon law.
  - c. Parallels to *Quo Primum*.
  - d. Promulgation in *Acta Apostolicae Sedis*.
3. Paul VI’s Apostolic Constitution expressly abrogated (revoked) *Quo Primum* by using a standard clause customarily employed for that purpose.

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62. See D. Prümmer, *Manuale Juris Canonici* (Freiburg: Herder 1927) 4. “b) *Ratione extensionis* jus ecclesiasticum dividitur: a. in *jus universale*, quod obligat in toto orbe christiano, et *jus particulare*, quod viget tantum in aliquo territorio determinato... e) *Ratione ritus* jus distinguitur in *jus Ecclesiae occidentalis* et *jus Ecclesiae orientalis*.” (His emphasis.) See also G. Michiels *Normae Generales Juris Canonici* 2nd ed. (Paris: Desclée 1949) 1:14.

63. Oppenheim 2:54. “Quae decreta pro universa Ecclesia ... rationem *verae legis* habere, nemo est qui dubitet.” (His emphasis.)

64. Oppenheim 2:63. “*Decreta generalia* quae ad universam Ecclesiam (ritus romani) diriguntur, *vim legis habent universalis*.” (His emphasis.)

65. SRC Decr. 2916, 23 May 1846. “An Decreta a Sacra Rituum Congregatione emanata et responsiones quaecumque ab ipsa propositis dubiis scripto formiter editae, eandem habeant auctoritatem ac si immediate ab ipso Summo Pontifice promanarent, quamvis nulla facta fuerit de iisdem relatio Sanctitati Suae?... Affirmative.”

66. “...quiddam nunc cogere et efficere placet.”

4. The Congregation for Divine Worship (CDW) subsequently promulgated three documents (which are, in fact, “general decrees”) that implement Paul VI’s Constitution. These documents:

- a. Impose the New Mass as obligatory.
- b. Forbid (save in certain cases) the old Mass.
- c. Employ standard lawmaking vocabulary.
- d. Expressly state they had Paul VI’s approval.
- e. Were duly promulgated in the *Acta*.

5. The CDW also issued a 1974 Notification, which reiterated that *only* the New Mass may be celebrated and that the old Mass was forbidden. It dismissed the claim of “immemorial custom” as “a pretense.” This document was a declarative interpretation of a law, and as such, did not have to be promulgated in the *Acta* to have effect.

6. The documents issued by the CDW were “authoritative interpretations of law” which, according to the Code, would have “the same force as the law itself,” because they were issued by a Roman congregation “to whom the lawmaker has committed the power to interpret the laws.”

7. The objection against classifying Paul VI’s legislation as universal disciplinary law because it does not bind the Eastern rites is based on a misunderstanding of the term “universal.” The term refers not to *rite* but to a law’s *territorial extension*.

## The Unavoidable Consequences

For all the foregoing reasons, therefore, if you insist that Paul VI was indeed a true pope possessing plenary legislative powers as the Vicar of Christ, you must also accept the following as the unavoidable consequences of his exercise of papal authority:

1. The New Mass was legally promulgated.
2. The New Mass is obligatory.
3. The traditional Mass was forbidden.

If you then still insist that the New Mass is **evil**, logic compels you to conclude what the faith and Christ’s promises preclude: **the Church of Christ has defected.**

For the Successor of Peter, who possesses the *authority* of Christ, has used that same authority to destroy the *faith* of Christ by imposing a Mass that is evil. For you, then, Christ’s promise to Peter and his successors is a lie and a deception — the gates of hell have prevailed.

\* \* \* \* \*

THIS, IN TURN, brings us back to the starting point for our study: the evil of the New Mass and the principle that the Church cannot give evil.

Paul VI followed all the correct legal forms which those invested with true papal authority customarily employed to impose universal disciplinary laws. Canonically, he dotted the *i*’s and crossed the *t*’s.

But what Paul VI imposed was evil, sacrilegious, faith-destroying. This is why as Catholics we reject it.

Because we know that the authority of the Church is *incapable* of imposing evil universal laws, we must therefore conclude that Paul VI, the giver of evil law, did not in reality possess papal authority.

For while it is impossible for the Church herself to defect, it *is* possible — as popes, canonists and theologians teach — for a

pope as an individual to defect from the faith, and automatically lose papal office and authority.

Once we recognize, in a word, that the New Mass is not Catholic, we also recognize that its promulgator, Paul VI, was neither a true Catholic nor a true pope.

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