

Sedevacantist Watch...

STUCK IN A RUT: FATHER CEKADA'S GLARING ERROR ON CANON 151

Fr. Cekada recently released a juvenile video on Sedevacantism called "Stuck in a Rut," which he dresses up with humorous caricatures and comical satire (techniques he commonly uses to camouflage the weakness of his own arguments). In the video, Fr. Cekada makes an embarrassing blunder when he attempts to use canon 151 from the 1917 Code of Canon Law to explain away the teaching of the theologians who maintain that a declaratory sentence of the crime is necessary for a Pope to lose his office for heresy. Ironically, Fr. Cekada illustrates his misunderstanding of the term "declaration" in the section of the video that he appropriately titled "Misunderstanding the Term 'Declaration.'"

Fr. Cekada begins this portion of the video by admitting that "later theologians" who accepted Bellarmine's position regarding *ipso facto* loss of office for a heretical Pope, "nevertheless allude to some sort of declaration by the college of Cardinals or bishops." He then claims that the "declaration" that these theologians are referring to *is not a declaratory sentence of the crime* (which, as our book *True or False Pope?* proves, follows and confirms the Church's judgment of heresy¹), but merely an *administrative declaration*.

In his usual fashion, Fr. Cekada smugly and sarcastically attempts to ridicule John Salza, Robert Siscoe, Chris Ferrara and Brian McCall (whose articles the video was intended to refute) by saying if his "moonlighting lawyer friends had taken even a basic course in canon law, they would realize that the term 'declaration,' in this context, merely reflects a general principle laid down in Canon 151 regarding appointment to a church office."

Here is canon 151 that Fr. Cekada is referring to:

"An office that is vacant *de jure* [by law], but that perchance is still held by another illegitimately, can be conferred provided that, duly according to the sacred canons, this possession is *declared not*

¹ As we show in the book, some theologians have held that a heretical Pope would technically lose his office after the Church established the crime, but before the declaratory sentence of the crime was issued. This position was held by some in an attempt to avoid difficulties associated with the Church "judging" the Pope.

to be legitimate and that mention of this declaration is made in the letter of conferral.”²

Unfortunately for Fr. Cekada, the “declaration” spoken of in this canon merely declares that an office, which is vacant by law, is being illegitimately occupied (the act causing the legal vacancy having *already* been established by the Church). After referencing the above canon, Fr. Cekada provided the following explanation for his viewers:

“If a cleric illegitimately functions in an office, he has no right to – a cleric, say, whose installation as bishop of the diocese was forcibly imposed by the civil power - the prelate or electors who have the canonical power to confer the office may validly appoint someone else only if the illegal occupant’s possession of it is declared not to be legitimate.”³

As we can see, canon 151 applies to the case where an office was filled *illegally* (or was *legally vacated*) yet remains illegitimately occupied. The “declaration” under canon 151 merely serves to facilitate the *legal removal* of the illegitimate occupier of an ecclesiastical office, in order to fill the office with a lawful occupant.

But, as reason itself confirms, the Church cannot *declare* that the office is being occupied illegally without first establishing how or why the occupant is not a legitimate officeholder. And this first judgment would have to come from the proper ecclesiastical authorities – the same authorities who, in Cekada’s own words, “have the canonical power to confer the office.”

Just as the proper ecclesiastical authorities alone have the authority to confer the office, so too, they alone have the authority to judge (and declare) how and why a cleric is not a legal officeholder – before it can be declared that the office is being illicitly occupied. If the office was vacated due to a crime, the crime would have to be established by the same authority.⁴ Cekada thus demonstrates who really needs the basic course in canon law.

² Canon 151, 1917 Code of Canon Law (emphasis added).

³ Cekada, video called “Stuck in a Rut.”

⁴ If Fr. Cekada is basing his case for the legal loss of office on canon 188.4 (1917 Code), which states that one who “publicly defects from the Faith” automatically loses his office, this would not apply to any of the recent Popes, since (even if a Pope were subject to this canon), the “public defection from the Faith” refers to a cleric *who publicly joins a non-Catholic sect*, either formally (*sectae acatholicae nomen dare*) or informally (*publice adhaerere*); not simply to a cleric that Fr. Cekada personally believes has committed the sin of heresy. Since none of the recent Popes have left the Church and publicly joined a non-Catholic sect, this canon has no relevance to Cekada’s case.

To further highlight the error of Fr. Cekada's theory, a "declaration" under canon 151 can be compared to an eviction notice after a real estate foreclosure. In the cases of both ecclesiastical office and real estate, the underlying cause (e.g., crime/debtor default) that gave rise to the loss (office/property) has *already* been adjudicated by the proper authorities (the Church/secular court). If Fr. Cekada seeks to apply this to a loss of office due to heresy, canon 151 has absolutely nothing to do with the *initial* determination of the crime that gave rise to the vacancy, nor to the need for the Church itself to judge that the crime has been committed. (i.e., canon 2223, §4).

Yet, based upon this single canon of limited application, Fr. Cekada would have his flock to draw the *general conclusion* that every time the theologians speak of a *declaratory sentence* in relation to the loss of office for a heretical Pope, it refers to a declaration of *illegitimacy*, and not a declaration of *the crime*. Unfortunately, many unread and gullible followers of Fr. Cekada fall for his ostensible erudition, which is easily unmasked by digging just below the surface. Not only is Cekada's use of canon 151 entirely erroneous, but the Sedevacantist priest hoists himself on his own petard by the very quotation he includes in his video (did we mention who needs the basic course in canon law?).

The quotation Fr. Cekada himself cites comes from the well-known commentary on canon law by Wernz and Vidal, whom Cekada uses as an example of "later theologians" who adhered to Bellarmine's opinion, but who nevertheless spoke of "some sort of declaration." In the video, Fr. Cekada displayed the following quotation (below) on the screen as he *verbally* "read" the quotation. But, interestingly, Fr. Cekada chose to exclude a few key words from the quotation in his oral "recitation." What words did Fr. Cekada choose to exclude? Those that show these "later theologians" (Wernz and Vidal) were referring to the *declaration of the crime*, and *not* the *declaration of illegitimacy*, as Cekada contends. We will underline the part he quoted. The remainder is what he conveniently failed to cite:

“A declaratory sentence of the crime, however, is not [to be] excluded as long as it is merely declaratory. This does not bring about the judgment of a heretical pope, but rather shows that he has been judged.”⁵

Notice that Wernz and Vidal explicitly mention a declaratory sentence "of the crime," not simply a declaration "of illegitimacy," as Fr. Cekada would have his followers believe. Fr. Cekada conveniently

⁵ *Ius Canonicum*. Rome: Gregorian 1943. 2:453.

omits (at least verbally) the part that completely contradicts his position – just like he does in other articles, as we document in great detail *True or False Pope?*

Now, when Wernz and Vidal say that the declaration of *the crime* is “merely declaratory,” they are simply noting that because the Church has no authority over the Pope, it cannot exercise an act that requires authority over him. Therefore, the Church does not technically “judge” a heretical Pope, as a superior judges an inferior, but merely declares the crime, thereby showing that he has already been judged (as Pope Innocent himself taught). Furthermore, the declaratory sentence of *the crime* is what establishes the *fact* that results in the loss of office, which means it would have to *precede* any declaration of illegitimacy.

As we show in our book, Suarez explained that the common opinion of the theologians is that the *ipso facto* loss of office would *follow* the declaratory sentence of *the crime*. “On deposing a heretical Pope,” wrote Suarez, the Church “would declare him a heretic [declaratory sentence of *the crime*] ... he would then *ipso facto* and immediately be deposed by Christ.”⁶ But before a Pope is declared a heretic by the proper authorities (or at least before the crime is established by the proper authorities), he remains the legal (legitimate) officeholder. Therefore, the canon cited by Fr. Cekada, which applies to *illegitimate* office-holders (based upon *the Church’s* judgment and not private judgment), in no way applies to the recent Popes, who have not been judged heretics by the Church, and thus were lawful occupants of the papal office.

In fact, Fr. Cekada’s argument is expressly *rejected* by Sedevacantist Bishop Donald Sanborn, who correctly notes that one who was legally elected Pope, and accepted the office, would have to be warned by the proper authorities, and a declaratory sentence issued by the Church, *before* he would cease to be a *legal* occupant of the papal office. Indeed, Sedevacantists have publicly remarked about Cekada being at odds with the bishop on this basic issue. Referring to the post-Vatican II Popes and bishops, Bishop Sanborn wrote:

“...we do not have the authority to declare the sees legally vacant which these ... possess *de facto*. Only the authority of the Church can do that. ... [until it] is legally declared null and void by competent authority, the heretical ‘pope’ or ‘bishop’ is in a state of legal possession of the see... He can only lose that state of *legal possession* by legal deposition.”⁷

⁶ *De Fide*, Disp. 10, Sect 6, n. 10, p. 317.

⁷ Bishop Sanborn, “An Emperor We Have, But No Bishop” (emphasis added).

As we can see, even Bishop Sanborn realizes that a man legally elected Pope (or legally appointed as a bishop) will possess his office *legally* unless and until he is *legally declared* illegitimate by the competent authority. As our book demonstrates in great detail, in the case of papal heresy, a declaration of illegitimacy (which we have termed a *declaration of deprivation*) would necessarily be preceded by the Church's determination of the crime of heresy, which is the *unanimous* opinion of the theologians. What this shows is that canon 151 in no way applies to the current Popes, as even Bishop Sanborn would concede.

Furthermore, after the Church established the crime, only the Church would have the authority to declare the see vacant, as the manualist J. M. Hervé explains:

“Given that, as a private person, the Pontiff could indeed become a public, notorious, and obstinate heretic... only a Council would have the right to declare his see vacant so that the usual electors could safely proceed to an election” (J.M. Hervé's Manuale Theologiae Dogmaticae, Hervé (1943) I.501.)

Not only have none of the recent Popes been judged guilty of the crime of heresy, but even if they had been, only a council (not Fr. Cekada) would have the right to declare the see vacant.

Fr. Cekada's effort to commandeer canon 151 to support his cause reveals that it is he himself who is “Stuck in the Rut” by attempting to defend his indefensible position. It's thus no mystery why Cekada's video - replete with rudimentary errors and the perfunctory insulting rhetoric - was not well-received, even by those in his Sedevacantist circles.