

Theses de ecclesia Christi (*Theses on the Church of Christ*)

by **Cardinal Ioannes Bapt. Franzelin (Cardinal John Baptist Franzelin), 1887**

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- Last Edit: April 3, 2025.
- Version: 1.0
- Selection pages: 220–239

Section II, Caput I, Thesis XIII

Latin

De distinctione inter Sedem et sedentem in Sede Apostolica.

“Seposita distinctione quae per se evidens est, inter personalia merita *sedentis* et praerogativas *Sedis*, 1°. omnino reiicienda est distinctio a Novatoribus inducta quoad praerogativas quae divinitus institutae competant *Sedi* Apostolicae, non vero singulis in ea *sedentibus*; siquidem praerogativae omnes a Christo institutae sunt ut propriae Petri et singulorum eius successorum, et per hos et ab his *sedentibus* pertinent ad *Sedem*. Nihilominus 2°. si perpetuitas *Sedis* Apostolicae et mortalitas singulorum *sedentium* spectetur, distinctio aliqua inter *Sedem* et singulos *sedentes* admitti debet, ex qua diversa conditio infallibilis magisterii et supremi regiminis in Ecclesia tempore *Sedis vacantis* et tempore *Sedis plenae* intelligitur.”

Nomine *Sedis* sive Apostolicae sive generatim cuiuscumque *episcopalis* intelligimus complexum iurium et officiorum pastoralium, quae vel per divinam institutionem perenniter duratura vel iure ecclesiastico stabilita, pro aliquo episcopatu disposita sunt ita, ut ea insint

English

On the distinction between the See and the one seated in the Apostolic See.

“Setting aside the distinction which is self-evident between the personal merits of the one *seated* and the prerogatives of the *See*, 1°. the distinction introduced by Innovators must be entirely rejected regarding prerogatives which by divine institution belong to the Apostolic *See*, but not to each individual *seated* in it; since indeed all prerogatives were instituted by Christ as proper to Peter and to each of his successors individually, and through these and from these *seated* persons they pertain to the *See*. Nevertheless 2°. if the perpetuity of the Apostolic *See* and the mortality of individual *seated* persons are considered, some distinction between the *See* and individual *seated* persons must be admitted, from which the different condition of infallible magisterium and supreme governance in the Church during the time of *vacant See* and the time of *occupied See* is understood.”

By the name of a *See*, whether Apostolic or generally of any *episcopal* [see], we understand the complex of rights and pastoral duties which, either through divine institution enduring perpetually or established by ecclesiastical law, are arranged for a particular episcopate in such a way that they inhere

singulis in illo episcopatu legitimis successoribus. Quando igitur *sedens* seu *praesidens* nominatur, intelligitur *in concreto* is ipse qui pro tempore iuribus illis pollet et officiis fungitur; nomine autem *sedis* in comparatione cum praesidente ipsa iura et officia per sese, *abstrahendo* a persona cui actu insunt, significantur, quatenus per divinam vel ecclesiasticam institutionem in hoc determinato episcopatu sunt perennia secundum ordinem successionis personarum. Hinc porro patet, denominationem *sedis* per apposita vel praedicata, quibus actus iurium et officiorum exprimitur, determinari ad concretam significationem ipsius praesidentis, qui habet et exercet actu iura et officia; vicissim vero *praesidens* potest significari formaliter et reduplicative *quatenus* pollet illis iuribus; vel nuncupative dumtaxat *qui* iuribus pollet, sed spectando eum secundum personalia eius bona vel mala merita.

Hisce positis et assumptis iis, quae in tribus proxime antecedentibus thesibus demonstrata sunt, corollarii instar consequitur, quo sensu vero comparatio et distinctio inter sedem et praesidentem locum habeat, et quae distinctio falsa omnino sit imo et haeretica.

1°. Distinctio inter praesidentes si non formaliter secundum iura pastoralia sed materialiter secundum sua bona vel mala merita spectantur, et inter sedem spectando iura in aliquo episcopatu permanentia secundum ordinem successionis, per se evidens est; eamque solum commemoramus, quia verbis quibus s. Leo M. eam expressit, Novatores abusi sunt ad aliquem velut patristicum colorem inducendum suae distinctioni erroneae inter sedem Romanam et in ea sedentes, de qua mox dicemus. Adversus ambitionem Anatolii Episcopi Constantinopolitani, cuius iam superius meminimus, s. Pontifex declarat, iura et privilegia sedis Alexandrinae firma esse, nec ex sceleribus Dioscori qui illam sedem

in each legitimate successor in that episcopate. Therefore, when the *seated one* or *presiding one* is named, we understand *in concrete terms* the very person who for the time being possesses those rights and performs those duties; by the name of the *see*, however, in comparison with the one presiding, the rights and duties in themselves are signified, *abstracting* from the person in whom they actually inhere, insofar as they are perpetual in this specific episcopate through divine or ecclesiastical institution according to the order of succession of persons. Hence, moreover, it is clear that the denomination of a *see*, through terms or predicates by which the exercise of rights and duties is expressed, is determined toward the concrete signification of the presiding one himself, who possesses and actually exercises the rights and duties; conversely, however, the *presiding one* can be signified formally and reduplicatively *insofar as* he possesses those rights; or merely designatively as *one who* possesses the rights, but considering him according to his personal good or bad merits.

These things having been established, and assuming those things which have been demonstrated in the three immediately preceding theses, it follows as a corollary in what true sense the comparison and distinction between the *see* and the one presiding takes place, and what distinction is entirely false and even heretical.

1°. The distinction between presiding bishops when considered not formally according to their pastoral rights but materially according to their good or bad merits, and between the *see* when considering the rights permanently residing in any episcopate according to the order of succession, is self-evident; and we mention it only because the Innovators have abused the words with which St. Leo the Great expressed it, to give some kind of patristic coloring to their erroneous distinction between the Roman See and those seated in it, about which we shall speak shortly. Against the ambition of Anatolius, Bishop of Constantinople, whom we have already mentioned above, the holy Pontiff declares that the rights and privileges of the Alexandrian see remain firm, and ought not to

tenuerat, quidquam detrimenti pati debere; adeoque etiam sedem Antiochenam in dignitate tertii gradus conservandam esse, non ad quartum redigendam iniusta usurpatione Episcopi Constantinopolitani, qui licet in inferiori sede potius meritis virtutum studeat eminere. « Nihil Alexandrinae sedi eius, quam per s. Marcum Evangelistam beati Petri discipulum meruit, pereat dignitatis; nec, Dioscoro impietatis suae pertinacia corruente, splendor tantae Ecclesiae tenebris obscuretur alienis. Antiochena quoque Ecclesia, in qua primum praedicante Apostolo Petro christianum nomen exortum est, in paternae constitutionis ordine perseveret, et in gradu tertio collocata numquam se fiat inferior. *Aliud enim sunt sedes, aliud praesidentes.* Et magnus unicuique honor est integritas sua, quae cum in quibuslibet locis ornamenta non perdat, quanto magis in Constantinopolitanae urbis magnificentia potest esse gloriosa, si per observantiam tuam, et defensionem paterni canonis et exemplum probitatis multi habeant sacerdotes» ep. 106. c. 3. ad Anatol. CP. Ad defensionem paterni canonis, quo in Nicaeno Concilio (can. 6. 7.) orientalium sedium iura firmata sunt, Leo hortatur etiam Maximum Antiochenum adversus molimina eiusdem Anatolii. «Dignum est enim te Apostolicae sedis in hac sollicitudine esse consortem, et ad agendi fiduciam privilegia tertiae sedis (Antiochena) agnoscere, quae in nullo cuiusquam ambitione minuentur, quia tanta apud me est Nicaenorum canonum reverentia, ut ea quae sunt a sanctis Patribus constituta, nec permiserim nec patiar aliqua novitate violari. *Etsi enim diversa nonnumquam sunt merita praesulum, iura tamen permanent sedium,* quibus etsi possint aemuli perturbationem aliquam fortassis inferre, *non tamen possunt minuere dignitatem*» ep. 119. c. 3. ad Maxim. Antioch.

suffer any detriment from the crimes of Dioscorus who had held that see; and likewise that the Antiochene see should be preserved in the dignity of the third rank, not to be reduced to the fourth by the unjust usurpation of the Bishop of Constantinople, who, though occupying a lower see, should rather strive to excel in merits of virtue. “Let nothing of the dignity which the See of Alexandria merited through St. Mark the Evangelist, the disciple of blessed Peter, be diminished; nor, with Dioscorus falling because of the obstinacy of his impiety, let the splendor of so great a Church be obscured by the shadows of others. Let the Church of Antioch also, in which the Christian name first arose with the Apostle Peter preaching, persevere in the order of the paternal constitution, and being placed in the third rank, let it never be made inferior. *For the sees are one thing, those presiding over them another.* And to each, his own integrity is a great honor, which, since it does not lose its distinction in any place whatsoever, how much more can it be glorious in the magnificence of the city of Constantinople, if through your observance, and defense of the paternal canon, and example of probity, many may have priests” (Epistle 106, chapter 3, to Anatolius of Constantinople). Leo also exhorts Maximus of Antioch to defend the paternal canon, by which in the Council of Nicaea (canons 6 and 7) the rights of the oriental sees were confirmed, against the machinations of the same Anatolius. “For it is fitting that you be a partner with the Apostolic See in this concern, and for confidence in action to recognize the privileges of the third see (Antioch), which shall not be diminished by the ambition of anyone, because so great is my reverence for the Nicene canons that I have neither permitted nor will I suffer those things which were established by the holy Fathers to be violated by any innovation. *For although the merits of prelates may sometimes be diverse, the rights of the sees nevertheless remain,* which, though rivals may perhaps cause some disturbance to them, *they cannot, however, diminish their dignity*” (Epistle 119, chapter 3, to Maximus of Antioch).

Comparat igitur et distinguit s. Leo *sedes ac*

Therefore, St. Leo compares and distinguishes

praesidentes eo solum sensu, quod iura cum sint vel ex incommutabili institutione divina vel saltem ex stabili ordinatione ecclesiastica, minimè pendent a meritis praesidentium, sicut vicissim haec merita non pendent a maioribus minoribusve iuribus potestatis et dignitatis, quae *finaliter* in bonum Ecclesiae sunt instituta, eo fere modo quo sentiendum et loquendum est de gratiis gratis datis in comparatione cum gratiis sanctificantibus.

2°. Richeriani, Ianseniani, Gallicani, Febroniani, abusu intolerabili ad verba s. Leonis appellabant, ut fucum inducerent suo errori^[1], quo iura et privilegia divinitus instituta et collata Petro referri aiebant ad *sedem* Petri, minime vero ad singulos *sedentes* in cathedra Petri; *sedem* esse indefectibilem in vera fide, ita scilicet ut numquam *contumaciter* deficiat ab Ecclesia universali; singulos *sedentes* posse etiam in definitionibus fidei et morum aliquando falli et fallere, quamvis deinde error a successoribus mox corrigendus sit. Ex hac itaque doctrina *indefectibilitas* in fide pertinet ad Ecclesiam sive sedem Romanam Petri, si spectetur successio moraliter continua, eodemque modo ad *seriem continuam* successorum Petri; *infallibilitas* vero in docendo adeoque supremum infallibile magisterium competit soli Ecclesiae universali sive Concilio oecumenico, quod Ecclesiam universalem repraesentat. Hinc porro inferebant, Romanum Pontificem potestati Ecclesiae universalis ac propterea etiam Concilio universalis Ecclesiae esse subditum; ex quo ulterius sequebatur, Concilium sicut est supra Pontificem ita posse esse legitimum praeter et contra Pontificem Romanum. Hac ratione non solum infallibile magisterium sed etiam supremum regimen supra Ecclesiam universalem, quae potestas utraque a Christo instituta est in Petro, negari in Petri successoribus constitutionemque a Christo inditam Ecclesiae transverti manifestum est.

Confutatio non quidem enucleator, quae in

between *seats* and *those who preside over them* only in the sense that rights, whether derived from immutable divine institution or at least from stable ecclesiastical ordinance, in no way depend on the merits of those presiding, just as conversely these merits do not depend on the greater or lesser rights of power and dignity, which are *ultimately* instituted for the good of the Church, in much the same way as one should think and speak of gratuitous graces in comparison with sanctifying graces.

2°. The Richerians, Jansenists, Gallicans, and Febronians, through an intolerable abuse, appealed to the words of St. Leo in order to disguise their error^[1], by which they claimed that the rights and privileges divinely instituted and conferred upon Peter referred to the *See* of Peter, but by no means to the individual *occupants* of Peter's chair; that the *See* is indefectible in the true faith, in such a way that it would never *obstinately* depart from the universal Church; that individual *occupants* could sometimes err and mislead even in definitions of faith and morals, although the error would soon be corrected by succeeding pontiffs. According to this doctrine, *indefectibility* in faith belongs to the Church or the Roman See of Peter, if one considers the morally continuous succession, and in the same way to the *continuous series* of Peter's successors; but *infallibility* in teaching, and thus the supreme infallible magisterium, belongs only to the universal Church or to an ecumenical Council, which represents the universal Church. From this they further inferred that the Roman Pontiff is subject to the authority of the universal Church and therefore also to a Council of the universal Church; from which it further followed that a Council, just as it is above the Pontiff, can also be legitimate apart from and against the Roman Pontiff. By this reasoning, it is evident that not only the infallible magisterium but also the supreme governance over the universal Church—both powers instituted by Christ in Peter—were denied to Peter's successors, thus overthrowing the constitution given to the Church by Christ.

A refutation—not indeed a detailed one, which is

Tractatu de Romano Pontifice danda et ab egregiis theologis data est, sed tamen sufficiens, quatenus in Tractatu de Ecclesia merito requiri potest, tota continetur in superioribus thesibus. Tria enim haec demonstrata sunt. a) Christus Dominus supremam magisterii et sacri imperii potestatem seu primatum cum omnibus eius iuribus instituit *in una persona Petro*, in distinctione expressa ab omnibus aliis Apostolis et a tota reliqua Christi Ecclesia, imo et in subordinatione totius Ecclesiae ac proinde etiam Apostolorum sub uno Petro, non solum singulas in Ecclesia sive partes sive membra, sed imo directe spectando totam simul Ecclesiam, quae in uno Petro aedificanda sit, totum regnum coelorum in terris cuius totius claves uni Petro dandae promittuntur, omnes simul fratres seu fraternitatem quae in mundo est, cuius universitatis confirmatio in fide committitur uni Petro, totum ovile Christi cuius totius pastor instituitur unus Petrus. b) Haec *unitas personae*, cui promittitur et datur plenitudo potestatis super totam Ecclesiam, indicatur et instituitur a Christo ad exclusionem divisionis inter multos; sed potestas eo modo quo primum instituta est, adeo quae *in unitate personae*, perenni successione propaganda est quamdiu persistit ipsa Ecclesia in terris, ut adversus eam portae inferi non praevalcant; in ipsis scilicet verbis Christi includitur perennis *singulorum* successio in eadem Petri potestate; pertinent enim verba promissionis et institutionis eodem modo et eadem efficacia sicut ad *unum* Petrum in fundatione, ita in perennitate fundationis ad *unam* singulorum Petro succedentium personam [²]. c) Quando perennis successio in potestate Petri iam est coniuncta cum Ecclesia particulari Romana, cum Sede Romana Petri; ex ipsis verbis Christi instituentibus perennitatem successionis *singulorum*, subiectum potestatis, iurium, privilegiorum quae in Petro instituta sunt non est aliud quam hic singularis pro quovis tempore Romanus Pontifex ut successor Petri; in sede vero, cathedra, Ecclesia Romana non sunt illa divinitus instituta iura potestatis, nisi

to be given in the Treatise on the Roman Pontiff and has been provided by distinguished theologians, but nevertheless sufficient insofar as it may rightfully be required in the Treatise on the Church—is contained entirely in the preceding theses. For these three points have been demonstrated: a) Christ the Lord instituted the supreme power of teaching and sacred governance, or primacy with all its rights, *in the one person of Peter*, with clear distinction from all other Apostles and from the whole remaining Church of Christ, indeed even with the subordination of the entire Church and therefore also of the Apostles under the one Peter. This concerns not only individual parts or members in the Church, but directly regards the entire Church simultaneously, which is to be built upon the one Peter; the entire kingdom of heaven on earth, the keys of which in its entirety are promised to the one Peter; all the brethren together or the brotherhood which exists in the world, the confirmation in faith of which in its universality is entrusted to the one Peter; the entire fold of Christ, of which the one Peter is established as the shepherd of all. b) This *unity of person*, to whom the fullness of power over the entire Church is promised and given, is indicated and instituted by Christ to the exclusion of division among many. But this power, in the manner in which it was first instituted, and thus *in the unity of person*, is to be propagated by perpetual succession as long as the Church itself persists on earth, so that the gates of hell may not prevail against it. Indeed, in the very words of Christ is included the perpetual succession of *individuals* in this same power of Peter. For the words of promise and institution pertain in the same manner and with the same efficacy to *each* individual person succeeding Peter, just as they pertained to the *one* Peter in the foundation and in the perpetuity of the foundation [²]. c) Since the perpetual succession in the power of Peter is now conjoined with the particular Roman Church, with the Roman See of Peter, from the very words of Christ instituting the perpetual succession of *individuals*, the subject of the power, rights, and privileges which were instituted in Peter is none other than this singular

quatenus sunt in Romano Pontifice, et quatenus ius est incommutabile, ut non alius quam Romanus Pontifex succedat Petro in potestate primatus divino iure instituta. Neque verba Christi institutoris pertinent ad seriem successorum complexive tantum spectatam, quatenus multi sunt, sed ad singulos qui actu succedunt in serie; adeoque etiam potestatis et privilegiorum, quae verbis Christi enuntiantur (infallibilis magisterii et supremi super universam Ecclesiam regiminis), subiectum *in actu* non sunt multi Pontifices qui fuerunt vel futuri sunt, sive tota series ut fingeant Gallicani, sed *unus* tantum, omnibus diebus usque ad consummationem saeculi, quando actu in serie Petro succedit. Vide argumenta demonstrationis in thesi X. et sequentibus, quorum compendium continetur verbis s. Hieronymi (ep. 15. n. 2.): « Ego nullum primum nisi Christum sequens, *Beatitudini tuae (Damaso), id est cathedrae Petri* communione consocior; *super illam petram aedificatam Ecclesiam scio.* »

Evidens igitur est, quando nominatur suprema potestas *sedis Apostolicae* sive in infallibili magisterio sive in universali regimine super totam Ecclesiam, nihil aliud significari quam potestatem ipsius tenentis sedem Apostolicam seu *sedentis* Romani Pontificis; distinctio autem hoc sensu facta inter *sedem* et *actu sedentem* Romanum Pontificem inducit in omnes haereses damnatas, quas commemoravimus. Ceterum ex hac etiam dolosa *sedis et sedentis* distinctione cum erroribus inde consequentibus et connexis apparet, quam necessaria fuerit definitio Concilii Vaticani, qua fere latentes haereses circa ipsa fundamenta et divinam constitutionem Ecclesiae ex omnibus involucris et ambagibus protractae atque explicite condemnatae sunt (sess. IV. capp. 1-4.).

3°. Nihilominus sensus est aliquis verus,

Roman Pontiff for any given time as the successor of Peter. In the see, however, the chair, the Roman Church, those divinely instituted rights of power do not exist, except insofar as they exist in the Roman Pontiff, and insofar as it is an immutable right that no one other than the Roman Pontiff succeeds Peter in the power of primacy instituted by divine law. Nor do the words of Christ the institutor pertain to the series of successors viewed only collectively, insofar as they are many, but to each individual who actually succeeds in the series. And therefore, even of the power and privileges which are declared in the words of Christ (of infallible teaching authority and supreme governance over the universal Church), the subject *in act* is not the many Pontiffs who were or will be, or the entire series as the Gallicans imagined, but *one* only, for all days until the consummation of the age, when he actually succeeds Peter in the series. See the arguments of the demonstration in thesis X and those following, the summary of which is contained in the words of St. Jerome (Epistle 15, n. 2): “I, following no one as first except Christ, am associated in communion with *Your Beatitude (Damasus), that is, with the chair of Peter; I know that upon that rock the Church is built.*”

It is therefore evident that when the supreme power of the *Apostolic See* is mentioned, whether in infallible teaching or in universal governance over the whole Church, nothing else is signified than the power of the one who holds the Apostolic See, that is, the *seated* Roman Pontiff; the distinction made in this sense between the *See* and the *actually seated* Roman Pontiff leads to all the condemned heresies which we have recalled. Moreover, from this deceptive distinction between *See and seated* with the errors consequently connected to it, it becomes apparent how necessary was the definition of the Vatican Council, by which the nearly hidden heresies concerning the very foundations and divine constitution of the Church were drawn out from all their entanglements and ambiguities and explicitly condemned (session IV, chapters 1-4).

3°. Nevertheless, there is a certain true sense in

quo, spectatis etiam iuribus ac praerogativis potestatis, sedes seu cathedra a singulis sedentibus κατ' ἐπίνοιαν distincta considerari possit ac debeat. Loquimur de sede et sedentibus Ecclesiae Romanae, quia in his tum potestas suprema tum perpetuitas successionis est divini iuris atque adeo longe maioris momenti; ceterum ex his ipsis applicatio accommoda sponte sese offert ad sedes alias patriarchales vel episcopales in quibus privilegia et ius successionis suo modo firma quidem sunt sed iure dumtaxat ecclesiastico.

Potestas itaque suprema per factum Petri principis Apostolorum, de quo supra dictum est, cum episcopatu Romano iam incommutabiliter coniuncta, si consideretur in se et formaliter secundum suam divinitus institutam perpetuitatem, proprie est et dicitur *sedes Apostolica*; singuli autem heredes huius potestatis in Petro institutae et coniunctae cum episcopatu Romano sunt et dicuntur *sedentes in sede Apostolica*.

Hinc distinctio oritur inter sedem et sedentem ratione *perpetuitatis*. Sedes, hoc est perpetuum ius primatus, ex parte Dei in eius incommutabili lege et supernaturali providentia, ex parte Ecclesiae in iure et officio potestatem pro singulis Petri successoribus divinitus institutam semper velut depositum custodiendi et successionem certa lege procurandi, numquam desinit; sed singuli heredes seu sedentes in sede Apostolica sunt homines mortales; adeoque sedes numquam deficere sed *vacare* potest et saepe vacat. Tum vero manet quidem divina lex et institutio perpetuitatis, manet hoc ipso ius et officium in Ecclesia secundum legem statutam procurandi successionem, manent etiam participationes potestatum, quatenus aliis communicabiles, et a superstite adhuc successore Petri communicatae sunt vel legitime constitutae et non abrogatae; sed ipsa suprema potestas cum suis iuribus et praerogativis, quae nusquam exstare potest nisi in uno singulari Petri herede, iam sede vacante actu nemini competit.

which, considering also the rights and prerogatives of power, the See or Chair, distinguished κατ' ἐπίνοιαν [conceptually] from individual occupants, can and should be considered. We speak of the See and occupants of the Roman Church, because in these both the supreme power and the perpetuity of succession are of divine right and thus of far greater importance; furthermore, from these very considerations, a suitable application spontaneously presents itself to other patriarchal or episcopal sees in which privileges and the right of succession are indeed firm in their own way, but only by ecclesiastical law.

Therefore, the supreme power, through the act of Peter, the prince of the Apostles, about which it has been spoken above, now being irrevocably joined with the Roman episcopate, if considered in itself and formally according to its divinely instituted perpetuity, properly is and is called the *Apostolic See*; while the individual heirs of this power instituted in Peter and conjoined with the Roman episcopate are and are called those *sitting in the Apostolic See*.

Hence arises a distinction between the See and the one sitting in it by reason of *perpetuity*. The See, that is the perpetual right of primacy, which on God's part consists in His immutable law and supernatural providence, and on the Church's part in the right and duty of always safeguarding as a deposit the divinely instituted power for each of Peter's successors and of ensuring succession according to established law, never ceases; but the individual heirs or those sitting in the Apostolic See are mortal men; and thus the See can never fail but it can *be vacant* and often is vacant. At such time, indeed, the divine law and institution of perpetuity remains, by this very fact the right and duty in the Church of procuring succession according to established law remains, the participations in powers also remain, insofar as they are communicable to others and have been communicated by the still surviving successor of Peter or have been legitimately constituted and not abrogated; but the supreme power itself with its rights and prerogatives, which can exist nowhere except in one singular heir of Peter, now with the

Ex his porro intelligitur distinctio in conditione ipsius Ecclesiae tempore *sedis vacantis* et tempore *sedis plenae*, illo scilicet priori tempore sedi Apostolicae vacanti divino iure *debetur sed nondum est* successor Petri, visibilis petra et visibile caput Ecclesiae; tempore sedis plenae is divino iure iam *actu sedet*. In considerationem potissimum venit ipsa radix totius vitae Ecclesiae, fidei inquam indefectibilitas et infallibilis custodia depositi. Certe non solum indefectibilitas *in credendo* (infallibilitatem passivam dicunt) sed etiam infallibilitas *in praedicando* veritatem revelatam et iam sufficienter pro fide catholica propositam manet in Ecclesia, etiam dum interim suo capite visibili orbata est, ut nec totum corpus Ecclesiae credendo nec totus Episcopatus docendo a fide tradita deficere et in haeresim delabi possit, quia talis permanentia Spiritus veritatis in Ecclesia, regno et sponsa et corpore Christi, comprehenditur in ipsa promissione et institutione indefectibilitatis Ecclesiae *omnibus diebus* usque ad consummationem saeculi. Idem quod de veritate fidei contra haeresim, dicendum etiam est ex eadem ratione de unitate communionis contra schisma universale. Manet enim lex et promissio divina perpetuae successionis in sede Petri ut radice et centro catholicae unitatis, huicque legi et promissioni respondet ex parte Ecclesiae non modo ius et officium sed etiam indefectibilitas in legitime procuranda et suscipienda successionem et in servanda unitate communionis cum sede Petrina etiam vacante, intuitu successoris in ea exspectandi et indefectibiliter futuri: « et ego claritatem (τὴν δόξαν) quam dedisti mihi, *dedi eis, ut sint unum*, sicut et nos unum sumus: ego in eis et tu in me, *ut sint consummati in unum* » (τετελειωμένοι εἰς ἓν) Io. XVII. 22.

At vero si agatur de infallibilitate *in definiendo*, haec sede Petri vacante,

See vacant belongs actually to no one.

From these things, moreover, one understands the distinction in the condition of the Church itself during the *vacant see* and during the *occupied see*. During that former time of the vacant Apostolic See, by divine law a successor of Peter, the visible rock and visible head of the Church, *is owed but does not yet exist*; during the time of the occupied see, he already *actually sits* by divine law. What comes primarily into consideration is the very root of the whole life of the Church, namely the indefectibility of faith and the infallible guardianship of the deposit. Certainly not only the indefectibility *in believing* (which they call passive infallibility) but also infallibility *in preaching* revealed truth already sufficiently proposed for the Catholic faith remains in the Church, even while it is temporarily deprived of its visible head, so that neither the whole body of the Church in believing nor the whole Episcopate in teaching can fall away from the handed-down faith and slip into heresy. This is because such permanence of the Spirit of truth in the Church—the kingdom, bride, and body of Christ—is included in the very promise and institution of the indefectibility of the Church *for all days* until the consummation of the age. The same thing that is said about the truth of faith against heresy must also be said, for the same reason, about the unity of communion against universal schism. For the divine law and promise of perpetual succession in the See of Peter as the root and center of Catholic unity remains, and corresponding to this law and promise on the part of the Church is not only the right and duty, but also the indefectibility in legitimately procuring and accepting succession and in preserving the unity of communion with the Petrine See even when vacant, in view of the successor who is awaited and who will indefectibly come: “And the glory (τὴν δόξαν) which you have given me, *I have given to them, that they may be one*, as we also are one: I in them, and you in me, *that they may be made perfect in one* (τετελειωμένοι εἰς ἓν)” John XVII. 22.

But if it concerns infallibility *in defining*, this cannot take place when the See of Peter is vacant,

quamdiu nullus est Romanus Pontifex, locum habere non potest. Non potest habere locum, ut per se evidens est, infallibilitas definitionis, qua per divinam assistentiam ipsi in beato Petro promissam pollere credimus « Romanum Pontificem, cum ex cathedra loquitur, id est cum omnium Christianorum pastoris et doctoris munere fungens, pro suprema sua Apostolica auctoritate doctrinam de fide vel moribus ab universa Ecclesia tenendam definit. » Nec potest habere locum infallibilitas *definitionis* in oecumenico Concilio, siquidem huiusmodi Concilium absque sua forma visibili, quae est ipsum caput Ecclesiae, cui Episcopi velut « membra capiti » uniantur et subordinentur, nullum existere potest (cf. Tract. de Tradit. post thes. XII. Schol. I. Princip. I.). Quae igitur exempli causa in Concilio Constantiensi velut definitiones proponi videbantur, eatenus tantum et in iis solis rationem definitionum Conciliarum habent, in quibus et quatenus Martini V. Pontificis post sessionem quadragesimam primam rite electi accessit definitio seu confirmatio. « Mortuo Pontifice, inquit Canus, *una* sine dubio manet Ecclesia, et manet in ea *Spiritus veritatis*; sed manca et diminuta sine Christi Vicario et Ecclesiae catholicae uno Pastore relinquitur. Quocirca licet *veritas tunc etiam in Ecclesia sit*; at si controversiae fidei et religionis oriantur, *Ecclesiae iudicia sine capite in terris non adeo certa erunt* » (Can., de Loc. I. IV. c. 6. ad object. 12.).

Bellarminus vero agens de Concilio Constantiensi, « Concilium, ait, sine Papa non potest definire nova dogmata fidei^[3]; potest tamen iudicare tempore schismatis, quis sit verus Papa, et providere Ecclesiae de vero Pastore, quando is nullus est aut dubius, et hoc est quod recte fecit Concilium Constantiense » (de Concil. I. II. c. 19. ad obi. 3. Gerson.). In eadem sententiam loquitur Suarez; nam quod disserit de dependentia *iurisdictionis* Concilii a Romano Pontifice, a fortiori certum est de eius dependentia in infallibilitate *magisterii*.

as long as there is no Roman Pontiff. The infallibility of definition cannot take place, as is self-evident, which we believe the “Roman Pontiff possesses through divine assistance promised to him in blessed Peter, when he speaks ex cathedra, that is, when, exercising his office as shepherd and teacher of all Christians, by virtue of his supreme Apostolic authority, he defines a doctrine concerning faith or morals to be held by the universal Church.” Nor can the infallibility of *definition* take place in an ecumenical Council, since such a Council without its visible form, which is the head of the Church itself, to whom the Bishops are united and subordinated as “members to the head,” cannot exist (cf. Treatise on Tradition after thesis XII, Scholium I, Principle I). Therefore, those propositions which, for example, seemed to be put forward as definitions in the Council of Constance, have the character of Conciliar definitions only to the extent and in those matters alone in which and insofar as the definition or confirmation of Pope Martin V, duly elected after the forty-first session, was added. “When the Pontiff dies,” says Canus, “the Church indeed remains *one*, and the *Spirit of truth* remains in it; but it is left maimed and diminished without Christ’s Vicar and the one Shepherd of the Catholic Church. Wherefore, although *truth may still be in the Church* at that time, yet if controversies of faith and religion arise, *the Church’s judgments* without a head on earth *will not be so certain*” (Canus, On Theological Sources, book IV, ch. 6, in response to objection 12).

Bellarmino, however, discussing the Council of Constance, says: “A Council without the Pope cannot define new dogmas of faith^[3]; nevertheless, in times of schism, it can judge who is the true Pope and provide the Church with a true Pastor when there is none or when the Pope is doubtful, and this is what the Council of Constance rightly did” (On Councils, book II, ch. 19, in response to objection 3 of Gerson). Suarez speaks in the same vein; for what he discusses concerning the dependence of the *iurisdiction* of a Council on the Roman Pontiff is, a fortiori, certain regarding

« Omnino verum esse credimus in Concilio generali (citra Pontificem) nullam esse iurisdictionem immediate a Christo collatam; ideoque dum legitimus et indubitatus Pontifex vivit, ab illo pendere generalis Concilii iurisdictionem ac proinde illi subesse... Tempore Concilii Constantiensis tres fuerunt praetensi Pontifices... Unde etiam fieri potuit, ut nullus eorum esset certus Pontifex atque adeo nec Pontifex, quia nondum aliquis eorum erat sufficienti consensu Ecclesiae receptus... In tali autem casu ius habet Concilium generale, quamvis acephalum, ad inquirendum de vero et legitimo Pontifice, et si nullum ex praetensoribus legitimum ac certum Pontificem esse invenerit, omnes deponere (potest), vel potius nullum eorum verum Pontificem esse declarare, et subinde de vero Pontifice Ecclesiae providere » (Suarez cont. Reg. Angl. l. III. e. 18. ad obi. 2.).

c) Propter distinctionem declaratam, quatenus sedes Apostolica divino iure et lege in sua perennitate numquam desinere potest, singuli vero sedentes mortales per intervalla desinunt, ipsa sedes Apostolica ut necessarium fundamentum et centrum unitatis Ecclesiae numquam sine haeresi in dubium vocari potest; fieri autem aliquando potest in magnis perturbationibus et factum esse ex historia constat, ut multi sancte retinentes fidem et venerationem erga sedem Apostolicam vere catholici sine sua culpa sedentem in Apostolica sede agnoscere non valeant, atque adeo nullo modo in haeresim, in schisma autem non formale sed materiale dumtaxat delabantur. Ita in luctuosa perturbatione per quadraginta annos ab Urbano VI. usque ad Gregorium XII. catholici scissi in duas et deinde tres obedientias, ut tunc loquebantur, omnes agnoscebant et colebant divina iura sedis Apostolicae; attamen non agnoscentes ius sedentis in sede Apostolica ex inculpabili ignorantia legitimae successionis, atque ita vel nulli vel pseudo-pontifici adhaerentes, inter quos viri etiam sancti ut s. Vincentius

its dependence in the infallibility of the *magisterium*. “We believe it to be entirely true that in a general Council (apart from the Pontiff) there is no jurisdiction immediately conferred by Christ; and therefore, while a legitimate and undoubted Pontiff lives, the jurisdiction of a general Council depends on him and is consequently subject to him... During the Council of Constance, there were three pretenders to the Pontificate... Hence it could also happen that none of them was a certain Pontiff and therefore not a Pontiff at all, because none of them had yet been received by a sufficient consensus of the Church... In such a case, a general Council, although acephalous [headless], has the right to inquire about the true and legitimate Pontiff, and if it finds that none of the pretenders is a legitimate and certain Pontiff, it can depose all of them, or rather declare that none of them is the true Pontiff, and subsequently provide the Church with a true Pontiff” (Suarez against the King of England, book III, ch. 18, in response to objection 2).

c) Due to the declared distinction, insofar as the Apostolic See by divine right and law can never cease in its perpetuity, while individual occupants, being mortal, cease at intervals, the Apostolic See itself, as the necessary foundation and center of the Church’s unity, can never be called into question without heresy. However, it can sometimes happen in times of great disturbances, and history shows that it has happened, that many who devoutly maintain their faith and veneration toward the Apostolic See, being truly Catholic, may through no fault of their own be unable to recognize the one seated on the Apostolic See, and thus they fall in no way into heresy, but only into a schism that is not formal but merely material. Thus, in the sorrowful disturbance lasting forty years from Urban VI until Gregory XII, Catholics were divided into two and later three “obediences,” as they were then called. All recognized and honored the divine rights of the Apostolic See; nevertheless, not recognizing the right of the one seated on the Apostolic See due to inculpable ignorance of the legitimate succession, and thus adhering either to no pope or to a pseudo-pontiff,

Ferrerius aliquamdiu eiusque frater Bonifacius Prior Carthusianus, in schisma materiale implicabantur.

Scholion. Opportunum hoc loco videtur brevissime exponere nostram opinionem de modo, quo extinctio schismatis istius funestissimi et restitutio plenae unitatis Ecclesiae, seu potius actualis communionis omnium catholicorum cum legitimo Apostolicae sedis herede explicanda nobis videtur. Licet enim omnes theologi imo tota Ecclesia plenissime consentiant quoad *ipsum factum* extinctionis schismatis per legitimam ac indubitam electionem Martini V. in unum verum Petri successorem, minime tamen idem consensus obtinet, imo non levis occurrit opinionum discrepantia inter theologos et iuris interpretes, quando quaeritur *de modo* quo ad felicem illum exitum legitime perventum sit. Nunc praesertim post lucidas et explicitas definitiones Concilii Vaticani de divinis iuribus primatus ac de relationibus quae inter eundem et totam reliquam Ecclesiam intercedunt, ad certius et firmitus expediendam quaestionem propositam principia dogmatica prae oculis habenda sunt, quae in ipsis illis definitionibus Concilii continentur vel ex eis necessario consequuntur.

1°. Quum primatus divino iure sit institutus in Petro propagandus in singulos eius legitimos successores perenni serie, quamdiu perstat Ecclesia aedificata super hanc petram; legitima electio in Romanum Pontificem est tantummodo conditio, qua posita ita electus ingreditur seriem successorum Petri, et hoc ipso accipit totam divinitus institutam potestatem primatus non ab electoribus, qui eam non habent, sed vi institutionis Christi et a Christo institutore, tamquam petra per potestatem participatam a Christo qui est petra per suam potestatem nativam.

2°. Ita constituto Pontifici Ecclesia sicut in singulis pastoribus et gregibus et ovibus ita tota spectata in omnibus simul pastoribus et gregibus et ovibus subdita est ut grex unus

among whom were even holy men such as St. Vincent Ferrer for some time and his brother Boniface, the Carthusian Prior, they were implicated in a material schism.

Scholion. It seems appropriate at this point to very briefly set forth our opinion on the manner in which the extinction of that most disastrous schism and the restoration of the full unity of the Church, or rather the actual communion of all Catholics with the legitimate heir of the Apostolic See, appears to us to be explained. For although all theologians, indeed the entire Church, are in complete agreement regarding the *fact itself* of the extinction of the schism through the legitimate and undoubted election of Martin V as the one true successor of Peter, nevertheless the same consensus does not prevail—indeed, no slight discrepancy of opinions occurs among theologians and interpreters of law—when the question concerns the *manner* by which that happy outcome was legitimately reached. Now, especially after the lucid and explicit definitions of the Vatican Council concerning the divine rights of the primacy and the relations that exist between it and the entire rest of the Church, in order to resolve the proposed question more certainly and firmly, we must keep in view the dogmatic principles that are contained in those very definitions of the Council or necessarily follow from them.

1°. Since the primacy by divine right was instituted in Peter to be propagated in each of his legitimate successors in an unbroken series, as long as the Church built upon this rock endures; legitimate election to the Roman Pontificate is merely the condition, which being fulfilled, the one thus elected enters the series of Peter's successors, and by this very fact receives the entire divinely instituted power of the primacy not from the electors, who do not possess it, but by virtue of Christ's institution and from Christ the institutor, as the rock through power participated from Christ who is the rock by His own native power.

2°. To the Pope thus constituted, the Church—whether considered in its individual pastors and flocks and sheep, or viewed in its entirety with all pastors, flocks, and sheep together—is subject as

uni supremo pastori: non Ecclesia etiam tota simul spectata habet ullam potestatem iurisdictionis in ipsum suum supremum pastorem, sed ipse in illam habet plenitudinem potestatis, ut in suum gregem, secundum normas divinitus positas.

[Note: 3° is skipped]

Ergo nulla existit in Ecclesia potestas, quae constituto iam Pontifici supremam potestatem cum omnibus suis iuribus divinitus collatam minuere vel adimere possit. Potestas a Christo instituta et collata successori Petri, in eo desinere nequit nisi vel spontanea renuntiatione, de cuius valore constat maxime post definitionem s. Coelestini V.^[4] ex doctrinis et factis in universa Ecclesia notoriis, vel spontanea defectione ab Ecclesia per manifestam et contumacem haeresim, quod scandalum in eo, qui formaliter ut pastor et doctor Ecclesiae ex Christi promissione et institutione per divinam assistentiam errare in definitionibus non potest, etiam ut in persona privata sicut numquam factum est ita an fieri possit, a theologis spectando suavem providentiam Christi erga suam Ecclesiam et ipsas promissiones divinas non sine ratione dubitatur (cf. Bellarmin. de Rom. Pontif. l. IV. cc. 6. 7.).^[5]

4°. Nec in haeresim formalem nec in haeresim materialem, positive negando quod revelatum est, vel tamquam revelatum affirmando quod non est revelatum, Ecclesia *tota*, regnum veritatis, incidere potest ex promissione Spiritus veritatis in ea manentis in aeternum; eadem ratione ex promissione perennis unitatis, cuius centrum et vinculum visibile est Romanus Pontifex, Ecclesia *tota*, corpus Christi, a vero et legitimo Pontifice Romano, suo capite visibili, separari numquam potest sive formali sive materiali schismate. Si quando talis secessio totius Ecclesiae contigisse videatur, ut ultimis annis Petri de Luna qui Benedictus XIII. dictus fuerat, ea non est defectio a vero et legitimo Pontifice privans illum sua potestate, quod fieri non potest (n. 3.); sed

one flock to one supreme shepherd. The Church, even when considered in its entirety, possesses no power of jurisdiction over its own supreme pastor; rather, he holds the fullness of power over the Church as over his flock, according to divinely established norms.

[Note: 3° is skipped]

Therefore, no power exists in the Church that can diminish or take away the supreme power with all its divinely conferred rights from an already constituted Pope. The power instituted by Christ and conferred upon the successor of Peter cannot cease in him except either through voluntary renunciation, whose validity is firmly established especially after the definition of St. Celestine V.^[4] as evidenced by doctrines and facts universally known throughout the Church, or through voluntary defection from the Church by manifest and obstinate heresy—a scandal which, in him who formally as pastor and teacher of the Church cannot err in definitions by virtue of Christ's promise and institution through divine assistance, whether such could happen even in his capacity as a private person (just as it has never occurred historically), is not without reason doubted by theologians considering Christ's gentle providence toward His Church and the divine promises themselves (cf. Bellarmine, De Romano Pontifice, book IV, chapters 6 and 7).^[5]

4°. Neither into formal heresy nor into material heresy, by positively denying what has been revealed, or by affirming as revealed what has not been revealed, can the *entire* Church, the kingdom of truth, fall according to the promise of the Spirit of truth who remains in it forever; by the same reasoning, from the promise of perpetual unity, whose center and visible bond is the Roman Pontiff, the *entire* Church, the body of Christ, can never be separated from the true and legitimate Roman Pontiff, its visible head, either by formal or material schism. If at times such a secession of the whole Church seems to have occurred, as in the final years of Pedro de Luna who had been called Benedict XIII, this is not a defection from the true and legitimate Pontiff depriving him of his power, which cannot happen (n. 3.); but a certain sign that

signum certum, illum numquam fuisse verum et legitimum Pontificem [⁶]. Ergo quod a multis ad explicanda acta conventus Pisani et Constantiensis dicitur axiomatis instar: Pontifex dubius, Pontifex nullus; verum est dumtaxat, si dubium et propter dubium secessio est totius Ecclesiae; non autem potest admitti, si postquam Pontifex legitime est constitutus, in parte imo in parte etiam maiori Ecclesiae propter inductas perturbationes dubia et secessionem oriantur.

5°. Quando pars Ecclesiae absque sua culpa propter inductam rerum obscuritatem materiali schismate adhaeret alicui tamquam legitimo Romano Pontifici, poterunt aliqui eius actus iurisdictionales maxime qui forum spectant internum, acquirere valorem ex titulo colorato [⁷]; sed nec ab ipso nec ab ulla etiam legitima potestate inferiori possunt valide abrogari aut mutari leges a vero Pontifice Romano constitutae, praesertim quae determinant valorem actus concernentis ipsum visibile fundamentum Ecclesiae, ut est electio capitis Ecclesiae (n. 2.).

Hisce principiis positis non valemus intelligere, quomodo admitti queat vel opinio illorum, qui ad acta Constantiensia explicanda cum Bellarmino et Suarezio dicunt, omnium trium, qui sibi tum temporis pontificatum vindicabant, ius fuisse dubium eo quod singulae obedientiae, ut appellabantur partes diversis Pontificibus adhaerentes, duos eorum haberent ut illegitimos; ita autem dubium Pontificem, non esse verum Pontificem, seu ut Suarezium loquentem audivimus: « fieri potuit ut nullus eorum certus esset Pontifex atque adeo nec Pontifex, quia nondum aliquis eorum erat sufficienti consensu Ecclesiae receptus. »

At qui legitime est electus, eo ipso non ab Ecclesia sed ab ipso Christo constituitur verus Pontifex (n. 1.), nec Ecclesiae « sufficiens consensus » requiritur aut exspectandus est tamquam *conditio, ut sit verus Pontifex*; sed « sufficiens consensus » ex oratione et promissione Christi pro unitate suae Ecclesiae certo consequitur

he was never a true and legitimate Pontiff [⁶]. Therefore, what is stated by many as an axiom to explain the acts of the Councils of Pisa and Constance: “A doubtful Pope is no Pope”; this is true only if the doubt and secession due to that doubt encompasses the entire Church; but it cannot be admitted if, after a Pontiff has been legitimately established, doubts and secessions arise in a part, even in the majority part of the Church, because of induced disturbances.

5°. When a portion of the Church, without fault of its own and due to an introduced obscurity of circumstances, adheres in material schism to someone as if he were the legitimate Roman Pontiff, some of his jurisdictional acts, especially those concerning the internal forum, may acquire validity by virtue of a colorable title [⁷]; but neither he himself nor any legitimate inferior authority can validly abrogate or modify laws established by the true Roman Pontiff, particularly those that determine the validity of an act concerning the very visible foundation of the Church, such as the election of the head of the Church (n. 2.).

Having established these principles, we cannot understand how one could admit the opinion of those who, in explaining the acts of the Council of Constance, say with Bellarmine and Suárez that the right of all three claimants to the pontificate at that time was doubtful because the individual obediences (as the parties adhering to different Pontiffs were called) regarded two of them as illegitimate; and thus, they argue, a doubtful Pontiff is not a true Pontiff, or as we heard Suárez stating: “it could be that none of them was a certain Pontiff and therefore not a Pontiff at all, because none of them had yet been received by a sufficient consensus of the Church.”

But one who is legitimately elected is thereby constituted a true Pontiff not by the Church but by Christ himself (n. 1), nor is the “sufficient consensus” of the Church required or to be awaited as a *condition for him to be a true Pontiff*; rather, “sufficient consensus” certainly follows from Christ’s prayer and promise for the unity of His

secundum debitum *obedientiae*, *quia est verus Pontifex* (n. 4.).

Praeterea evidens est, Constantiae quoad modum electionis et quoad ipsos legitimos electores multa esse statuta et peracta, quae erant praeter et contra leges pro valida electione constitutas a suprema potestate Romanorum Pontificum Alexandri III. Gregorii X. Clementis V. At huiusmodi mutatio et suspensio legum supremae potestatis fieri non potuit nisi per ipsam supremam potestatem Romani Pontificis, ut ex ipsa divinitus constituta relatione subiectionis *totius Ecclesiae* sub potestate supremi Pastoris consequitur et Suarezium etiam fateri vidimus: « quia non potest inferior potestas mutare quod per superiorem constitutum est, et quia Petro soli datus est primatus pro ipso et successoribus eius, ad ipsum solum seu ad summum Pontificem spectat... *modum electionis eius et successionis* praescribere » (vide supra th. XII. n. III.).

Iam vero si tum temporis nullus erat *verus Pontifex*, quia (ut aiunt isti theologi) nullus erat indubius et certus, manifesto ab inferiori potestate congregationis Constantiensis actum esset contra modum electionis praescriptum a suprema potestate Summorum Pontificum.

Neque modus praescriptus electionis solum mutatus est accensendo electoribus praeter Cardinales etiam alios Episcopos et simplices presbyteros, qui ne ad Clerum quidem Romanae Ecclesiae pertinebant; sed difficultates exstabant quoad ipsos etiam Cardinales ex tribus obedientiis assumptos, quas ab illis theologis nec solutas imo neque commemoratas esse video, nec quomodo in eorum hypothesis solvi possint, equidem perspicio.

Si enim per quadraginta fere annos (27. Martii 1378. quo defunctus est Gregorius XI. usque ad electionem Martini V. 11. Novembris 1417.) nullus dicatur fuisse verus Pontifex, quomodo legitimi censeri poterant omnes illi Cardinales ab istis pseudopontificibus creati, qui tamen licet ex

Church according to the duty of *obedience*, *because he is a true Pontiff* (n. 4).

Moreover, it is evident that at Constance, regarding both the manner of election and the legitimate electors themselves, many things were decreed and performed that were outside of and contrary to the laws established by the supreme authority of the Roman Pontiffs Alexander III, Gregory X, and Clement V for a valid election. But such a change and suspension of laws of the supreme authority could only be made by the supreme authority of the Roman Pontiff itself, as follows from the divinely constituted relationship of subjection of *the entire Church* under the power of the Supreme Pastor, and as we have seen Suárez also admit: “because a lower power cannot change what has been constituted by a higher power, and because primacy was given to Peter alone for himself and his successors, it belongs to him alone or to the Supreme Pontiff... to prescribe *the manner of his election and succession*” (see above th. XII. n. III).

Now if at that time there was no *true Pontiff*, because (as these theologians say) none was indubitable and certain, it is manifest that the assembly of Constance would have acted by an inferior power against the manner of election prescribed by the supreme authority of the Supreme Pontiffs.

Nor was the prescribed manner of election only changed by adding to the Cardinals also other Bishops and simple priests as electors, who did not even belong to the Clergy of the Roman Church; but difficulties existed regarding even the Cardinals themselves taken from the three obediences, which I see neither solved nor even mentioned by those theologians, nor indeed do I perceive how they could be solved in their hypothesis.

For if for almost forty years (from March 27, 1378, when Gregory XI died, until the election of Martin V on November 11, 1417) there is said to have been no true Pontiff, how could all those Cardinals created by those pseudo-pontiffs be considered legitimate, who nevertheless, although taken from

diversis obedientiis et a contrariis pontificibus assumpti se invicem in Conventibus Pisano et Constantiensi agnoscebant ut legitimos, et contradicentibus ipsis pontificibus, a quibus erant creati, omnia sibi iura Cardinalium vindicabant?

Uterius si electio Urbani VI. (8. Aprilis 1378.) erat invalida, quomodo valida non erat altera Clementis VII. (20. Septembris 1378.)? Si autem, quod merito in dubium vocari iam nequit, Urbanus vere creatus est atque ab ipsis Cardinalibus, qui postea defecerunt, publicis actibus et scriptis litteris saltem usque ad mensem Iunium agnitus ut legitimus successor s. Petri, quomodo propter subsequentem secessionem atque inde malis artibus paulatim ad multos propagatam dubitationem ipse decedit a pontificatu, quem non a Cardinalibus nec ab Ecclesia sed immediate a Christo Deo collatum tenebat?

Si igitur quorumcumque hominum actibus pontificatu divinitus collato spoliari non potuit, sed usque ad obitum (15. Octobris 1389. in sua sede Romana) verus permansit Petri successor, absque dubio eius successores secundum omnes statutas leges electi Bonifacius IX. Innocentius VII. Gregorius XII. veri et legitimi erant in sede Petri successores.

Dubia vero illa post Urbani electionem et agnitionem iam stabilitam invecta et propagata a Cardinalibus offensis, quae deinde utique protendebantur ad eius successores, efficere tantummodo poterant, quod superius diximus, ut addicti partibus Roberti Genevensis (Clementis VII.) et successoris Petri de Luna (Benedicti XIII.) aut deinceps Alexandri V. a Pisanis electi (26. Iunii 1409.) eiusque successoris Ioannis XXIII. non essent formaliter sed solum materialiter schismatici, atque adeo inter eos potuerint reperiri viri etiam sancti; sed nec dubia illa, nec quae consequenter ad illa in conventu Pisano per electionem adhuc tertii, qui nomen Romani Pontificis assumeret, poterant Urbano VI. eiusque successoribus valide electis adimere dignitatem et potestatem super universam Ecclesiam.

different obediences and appointed by opposing pontiffs, recognized each other as legitimate in the Councils of Pisa and Constance, and, contrary to the pontiffs by whom they were created, claimed all the rights of Cardinals for themselves?

Further, if the election of Urban VI (April 8, 1378) was invalid, how was the second election of Clement VII (September 20, 1378) not valid? But if, which can no longer be rightly called into doubt, Urban was truly created and acknowledged by those very Cardinals who later defected, by public acts and written letters at least until the month of June, as the legitimate successor of St. Peter, how because of the subsequent secession and the doubt gradually spread to many by evil arts did he lose the pontificate, which he held not from the Cardinals nor from the Church but immediately conferred by Christ God?

If therefore he could not be despoiled of the divinely conferred pontificate by the acts of any men whatsoever, but remained until his death (October 15, 1389, in his Roman See) the true successor of Peter, without doubt his successors elected according to all the established laws—Boniface IX, Innocent VII, Gregory XII—were true and legitimate successors in the See of Peter.

Those doubts that were introduced and spread by the offended Cardinals after Urban's already established election and recognition, which were indeed then extended to his successors, could only accomplish what we stated above, that those attached to the parties of Robert of Geneva (Clement VII) and his successor Peter de Luna (Benedict XIII), or subsequently Alexander V, elected by the Pisans (June 26, 1409), and his successor John XXIII, were not formally but only materially schismatic, and therefore among them there could be found even holy men; but neither those doubts, nor what consequently followed them in the assembly of Pisa through the election of yet a third who would assume the name of Roman Pontiff, could take away from Urban VI and his validly elected successors the dignity and

Accusatio schismatis et «notoriae haereseos» a Pisanis inducta contra Gregorium XII., quod fautor et defensor inveterati schismatis negaret revelatam veritatem unitatis Ecclesiae, et ideo decidisset a pontificatu, contradictionem involvit; si enim verus fuit Pontifex a Christo habens supremam potestatem super universam Ecclesiam, hanc suam potestatem defendendo contra adversarios saltem materialiter schismaticos nec facto oppugnavit multoque minus sententia negavit unitatem Ecclesiae a Christo institutam maxime in suo capite et sub suo capite visibili.

Neque postmodum ab ipsis Constantiensibus « notoria ista haeresis » Gregorii aut veritas iudicii Pisani ullatenus est agnita, ut mox apparebit. Non tamen ideo necesse est negare Gregorium in illa Ecclesiae turbatione ad sponte renuntiandum obligatum esse et huic obligationi resistendo peccare potuisse; sed propter peccata alia quam haereseos Pontificem sua potestate privari, assertio est damnata in articulo 8. Wicleffi et in articulis 12. 13. 20. 22. 24. Ioannis Hus definiente Martino V. in ipso Concilio Constantiensi.

Videtur ergo legitimus processus Concilii Constantiensis ad extinctionem schismatis alia ratione explicandus praesertim nunc, postquam catholicus intellectus fidei de vi et ratione primatus a definitionibus oecumenici Concilii insigniter illustratus et firmatus est (Conc. Vatic. sess. 4. c. 3.). Explicatio vero ex ipsis actis elucet manifesta, ut sane sit cur humili laude miremur Christi regis, sponsi et capitis Ecclesiae providentiam, qua ingentes illas turbas cupiditate et ignorantia hominum invectas ac sustentatas composuit salvis omnibus legibus, demonstrans clarissime non ope humana sed divina fidelitate in promissis et omnipotentia in gubernatione niti indefectibilitatem petrae, in qua ipse aedificavit Ecclesiam suam, ut portae inferi non praevaleant adversus eam.

power over the universal Church.

The accusation of schism and “notorious heresy” brought by the Pisans against Gregory XII, that as a supporter and defender of an inveterate schism he was denying the revealed truth of the unity of the Church, and had therefore fallen from the pontificate, involves a contradiction; for if he was a true Pontiff having from Christ supreme power over the universal Church, by defending this his power against adversaries who were at least materially schismatic, he neither in fact opposed, much less denied in principle, the unity of the Church instituted by Christ, especially in its head and under its visible head.

Nor was “that notorious heresy” of Gregory or the truth of the Pisan judgment ever acknowledged by the Council of Constance itself, as will soon appear. Yet it is not therefore necessary to deny that Gregory, in that disturbance of the Church, was obliged to voluntarily resign and that by resisting this obligation he could have sinned; but that a Pontiff can be deprived of his power for sins other than heresy is an assertion condemned in article 8 of Wycliffe and in articles 12, 13, 20, 22, 24 of John Hus by the definition of Martin V in the Council of Constance itself.

It seems, therefore, that the legitimate process of the Council of Constance for the extinction of the schism must be explained in another manner, especially now, after the Catholic understanding of the faith concerning the force and nature of the primacy has been remarkably illuminated and strengthened by the definitions of the Ecumenical Council (Vatican Council, Session 4, Chapter 3). Indeed, the explanation clearly shines forth from the acts themselves, such that we may certainly marvel with humble praise at the providence of Christ the King, Spouse, and Head of the Church, who settled those enormous disturbances introduced and sustained by the cupidity and ignorance of men while preserving all laws, demonstrating most clearly that the indefectibility of the rock upon which He Himself built His Church, so that the gates of hell might not prevail against it, rests not on human aid but on divine

faithfulness in promises and omnipotence in governance.

Gregorius XII. legitimus Urbani VI. successor suis legatis Cardinali Ioanni de Dominicis et Carolo de Malatestis 1°. « de plenitudine potestatis plenam et liberam facultatem » dedit congregationem Constantiensem, « in quantum per serenitatem regiam (Sigismundum) et non Balthasarem se nuncupare facientem Ioannem XXIII. vocatam, » constituendi in verum ac legitimum Concilium « pro extirpatione horrendorum schismatum et integra unione merito optanda et perficienda, » seu ut verba sunt

2°. De eadem « plenitudine potestatis » dedit legatis facultatem nomine Pontificis in antecessum approbandi, quae Concilium iam legitime convocatum ad illum finem disposuerit: « vice nostra (inquit) similiter autorizandi, approbandi et confirmandi, quae disponentur pro vera redintegratione et unione Ecclesiae et praefatorum schismatum extirpatione per congregationem eandem » (postquam nempe iam fuerit convocata et auctorizata ut generale Concilium).

3°. Constantienses tum convocationem in Concilium tum collationem potestatis omnia opportuna disponendi pro vera unione Ecclesiae factam a Gregorio admiserunt « in omnibus et per omnia, quantum ad ipsum (Gregorium) spectare videtur. » Atque ita utramque Gregorii dispositionem Cardinalis de Dominicis eius legatus in sessione XIV. (4. Iulii 1415.) solemniter promulgavit. « In nomine Patris et Filii et Spiritus Sancti, Amen. Auctoritate ipsius Domini Nostri Papae, quantum ad eundem spectat... ut sub diversorum professione Pastorum dissidentes Christiani in unitate sanctae Matris Ecclesiae et caritatis vinculo coniungantur, *istud sacrum Concilium generale convoco, et omnia per ipsum agenda auctorizo et confirmo iuxta modum et formam, prout in litteris Domini Nostri Papae plenius continetur.* »

4°. His peractis Concilium inter « agenda a Gregorio auctorizata » ad extirpationem

2°. From the same “fullness of power” he gave to the legates the faculty of approving in advance, in the name of the Pontiff, what the Council, already legitimately convoked for that purpose, might ordain: “Similarly, in our place (he says) authorizing, approving, and confirming what shall be ordained for the true restoration and union of the Church and the extirpation of the aforementioned schisms by the same congregation” (namely, after it had already been convoked and authorized as a General Council).

3°. The Fathers of Constance accepted both the convocation into a Council and the conferral of power to arrange everything opportune for the true union of the Church made by Gregory “in all things and through all things, insofar as it seems to pertain to Gregory himself.” And thus Cardinal de Dominicis, his legate, solemnly promulgated both of Gregory’s dispositions in the fourteenth session (July 4, 1415). “In the name of the Father and of the Son and of the Holy Spirit, Amen. By the authority of the Lord Our Pope himself, insofar as it pertains to him... so that Christians, divided under the profession of diverse Pastors, might be joined in the unity of Holy Mother Church and in the bond of charity, *I convoke this sacred General Council, and I authorize and confirm all things to be done by it according to the manner and form as is more fully contained in the letters of Our Lord Pope.*”

4°. After these things were accomplished, the Council, among “the actions authorized by

schismatis unum maxime necessarium statim praestitit, obedientias nempe duas Gregorii et Ioannis decrevit iam coniunctas et unitas esse « in uno corpore D. N. Iesu Christi et huius sacri universalis Concilii generalis, » atque ad hunc ipsum finem omnes censuras et poenas utrimque occasione schismatis inflictas solvit et absolvit, et personas omnes dictarum obedientiarum « in suis statibus, dignitatibus et officiis habilitavit, et cum eis, quantum opportunum fuerit aut indigebant, dispensavit. » Tum vero per eandem sibi impartitam auctoritatem decrevit, modum et formam futurae electionis Romani Pontificis, post s. Sedis vacationem, ipsi Concilio hac vice statuendam reservari: « ut praetextu cuiuscumque cessionis aut vacationis sedis Apostolicae sive papatus durante praesenti Concilio factae vel faciendae non procedatur ad Pontificis electionem nisi *a modo*, forma, loco, tempore et materia (intelliguntur habentes ius eligendi) per sacrum Concilium ordinandis. »

Quis iam dubitare potest, haec de rebus summis acta et decreta non potuisse habere valorem nisi per supremam in Ecclesia a Christo institutam solius Romani Pontificis potestatem? Atqui Gregorius XII. qui tunc nondum renuntiaverat et verus erat Pontifex Romanus, « auctorizavit, approbavit, confirmavit, *quae disponentur per Concilium* » sine alia limitatione, nisi ut disponantur ad unionem Ecclesiae et schismatum extirpationem, quod paulo ante vidimus. Ergo cum haec acta et decreta sint evidenter ad istum ipsum finem, certum et plenum per ipsam Pontificis confirmationem habebant valorem.

5°. Postremus demum actus in ista XVI. sessione fuit libera abdicatio pontificatus. « Ego Carolus de Malatestis..., pure, libere et sincere procuratorio nomine ipsius SSmi. Domini Nostri, Domini Gregorii Papae XII. in nomine Patris et Filii et Spiritus Sancti renuntio et cedo expresse in his scriptis realiter et cum effectum iuri, titulo, et possessioni, quod, quem et quam ipse habet

Gregory” for the extirpation of the schism, immediately established one thing as especially necessary, namely, it decreed that the two obediences of Gregory and John were now joined and united “in the one body of Our Lord Jesus Christ and of this sacred universal General Council,” and to this very end it absolved and released all censures and penalties inflicted on either side on the occasion of the schism, and rehabilitated all persons of the said obediences “in their states, dignities, and offices, and dispensed with them, as far as was opportune or they required.” Then indeed, through the same authority imparted to itself, it decreed that the manner and form of the future election of the Roman Pontiff, after the vacancy of the Holy See, should be reserved to be determined by the Council itself on this occasion: “that under pretext of any cession or vacancy of the Apostolic See or papacy occurring or to occur during the present Council, no one should proceed to the election of a Pontiff except *in the manner*, form, place, time, and matter (by which is understood those having the right to elect) to be ordained by the sacred Council.”

Who can now doubt that these acts and decrees concerning the highest matters could not have had validity except through the supreme power in the Church instituted by Christ, that of the Roman Pontiff alone? And yet Gregory XII, who had not yet renounced his office and was the true Roman Pontiff, “authorized, approved, and confirmed *whatever would be decided* by the Council” without any limitation, except that it be arranged for the union of the Church and the extirpation of schisms, as we saw a little earlier. Therefore, since these acts and decrees are evidently for this very purpose, they had certain and full validity through the confirmation of the Pontiff himself.

5°. Finally, the last act in this XVI session was the free abdication of the pontificate. “I, Charles Malatesta..., purely, freely, and sincerely, in the procuratorial name of the Most Holy Lord Himself, Lord Gregory XII, Pope, in the name of the Father and of the Son and of the Holy Spirit, renounce and cede expressly in this writing, really and with effect, the right, title, and possession

in papatu, et resigno nomine praefati Domini Nostri papatum et omne ius papatus, titulum et possessionem, quod, quem et quam habet coram D. N. Iesu Christo, qui Ecclesiae suae est sponsus et caput » (Harduin. VIII. p. 384-400.).

Per hanc renuntiationem sedes Apostolica vere relicta est vacua, ac proinde Concilium ex facultatibus ipsi a Suprema Pontificis potestate attributis potuit legitime procedere modo, forma, loco, tempore et materia per ipsum Concilium ordinatis « ad canonicam et certam electionem unci futuri summi Pontificis, » ut finem suae renuntiationis ipse Gregorius in mandato ad Carolum de Malatestis declaraverat (Hard. VIII. 387.); eamque tandem post biennium (11. Nov. 1417.) in Martino V. feliciter perfecit.

Haec quae forte *παρεργα* videri possunt, censui hoc loco non inopportune inserenda ad ulteriorem aliquam dilucidationem monarchiae ecclesiasticae, de qua in superioribus thesibus actum est. Nunc porro progredimur ad considerandum factum constitutionis Ecclesiae ipso tempore Apostolico.

[^1]: {org. 1} In « Defensione declarationis Cleri Gallicani » l. X, c. 4. et sqq. haec crambes coquitur et recoquitur usque ad nauseam, et tam manifestis sophismatis res agitur, ut causa patrocinio non bona peior facta sit. Citabo paucas dumtaxat sententias, ex quibus ver ita, ut in textu exponimus erratum fuisse appareat. « Merito Petro dicitur: non deficiet fides tua; cum numquam futurum sit, ut Petri successores eorumque universae series et successio, sedesque cui praesint atque Ecclesia quam docendam et regendam susceperint, a vera fide avelluntur..... Neque obiciant, sedem a sedente Pontifice minime distinguendam; hunc enim errorem multis iam veterum testimoniis sublatum esse credimus. Vel s. Leonem audiant de sede Antiochena dicentem: aliud sunt sedes, aliud praesidentes..... Accipiendi ergo Romani

which he has in the papacy, and I resign in the name of our aforementioned Lord the papacy and every right of the papacy, title and possession, which he holds before Our Lord Jesus Christ, who is the spouse and head of His Church” (Harduin. VIII. p. 384-400.).

Through this renunciation, the Apostolic See was truly left vacant, and consequently the Council, by virtue of the faculties attributed to it by the Supreme Pontifical power, could legitimately proceed in the manner, form, place, time, and matter ordained by the Council itself “for the canonical and certain election of the one future Supreme Pontiff,” as Gregory himself had declared as the purpose of his renunciation in his mandate to Carlo Malatesta (Hardouin VIII. 387.); and after two years (November 11, 1417), the Council happily accomplished this in the election of Martin V.

These matters, which might perhaps appear as *παρεργα* [incidental or supplementary], I have judged not inappropriate to insert at this point for some further elucidation of the ecclesiastical monarchy, which has been discussed in the preceding theses. Now we shall proceed to consider the fact of the constitution of the Church during the Apostolic era itself.

[^1]: {org. 1} In “Defense of the Declaration of the Gallican Clergy,” Book X, ch. 4 and following, this same old argument is cooked and recooked to the point of nausea, and the matter is conducted with such manifest sophistry that a case, not good to begin with, is made worse by its defense. I shall cite just a few statements from which the truth will appear, showing how, as we explain in the text, they have erred. “It is rightly said to Peter: your faith will not fail; since it will never happen that Peter’s successors and the whole series and succession of them, and the See over which they preside, and the Church which they have undertaken to teach and govern, will be torn away from the true faith..... Nor should they object that the See is not to be distinguished from the Pontiff who sits upon it; for we believe this error has already been removed by many testimonies of the ancients. They should hear St. Leo speaking about

Pontifices tamquam una persona Petri, in qua numquam fides penitus deficiat; atque ut in aliquibus vacillet aut concidat, non tamen deficit in totum, quae statim revictura sit..... Id in Ecclesia Romana contigisse multa exempla docuerunt, neque porro aliter ad consummationem usque saeculi, in tota Pontificum successione, eventurum esse certa fide credimus » Ibi c. 4. et 5. Paulo inferius Ecclesiae et sedis Romanae indefectibilitas a fide, quae concedi videbatur, explicatur ita ut indefectibilitas sensu proprio atque infallibilitas in fide docenda tribuatur soli Ecclesiae universali et oecumenico Concilio, cui ipse Romanus Pontifex subiectus sit. « Certiora cogitent, qui Ecclesiae Romanae sedisque Apostolicae inviolabilem statum fidemque praedicant: nempe id eventurum numquam, ut quemadmodum Ecclesiae exempli gratia Constantinopolitanae, Alexandrinae, et nunc Anglicae, Danicae; ita Ecclesiae Romanae error inhaereat, quem contumace proposito tueatur, et a verae Ecclesiae se abrumpat sinu. Neque vero umquam Romani Pontifices refugerunt, ut quod Cleri sui consensu judicassent, cum oecumenica synodo, si res postularet, aequo animo retractarent..... Unam ergo Ecclesiam catholicam utpote Spiritus Sancti magisterio instructam, quaecumque eam repraesentet, synodum oecumenicam, eam esse credimus, in quam circa fidem nullus umquam obrepat defectus, neque per contumaciam neque per imprudentiam; Clerum vero Romanum si quid erraret, ab Ecclesia catholica atque eius oecumenica synodo dirigi, revocari, doceri debere, perficique omnino, ne error inoleseat. Unde illa Romanae Ecclesiae sedisque Apostolicae invicta firmitas, ipsa Ecclesiae catholicae firmitate constat; quae quidem Ecclesia catholica cum sit ex Christi promissione immobilis, Petri successionem eique coniunctam principalem Ecclesiam sedemque Romanam, partem Ecclesiae necessariam, ea vi quae totum continet, stare quoque oportet.... Quae cum ita sint, apparet Ecclesiam catholicam primitus esse immotam, cui dictum sit: portae inferi non praevallebunt adversus eam, et: ecce ego vobiscum sum; Ecclesiam vero Romanam

the Antiochene See: the seats are one thing, those who preside another..... The Roman Pontiffs, therefore, are to be accepted as one person of Peter, in whom faith never completely fails; and even if in some instances it wavers or falls, it nevertheless does not fail entirely, since it will immediately revive..... Many examples have shown this to have happened in the Roman Church, and we believe with certain faith that it will never otherwise occur in the entire succession of Pontiffs until the consummation of the age.” There in ch. 4 and 5. A little further down, the indefectibility from faith of the Church and Roman See, which seemed to be conceded, is explained in such a way that indefectibility in the proper sense and infallibility in teaching faith is attributed only to the universal Church and the Ecumenical Council, to which the Roman Pontiff himself is subject. “Let those who proclaim the inviolable state and faith of the Roman Church and Apostolic See consider more certain things: namely, that it will never happen that, as in the case of the Churches of Constantinople, Alexandria, and now the English and Danish Churches, error will likewise adhere to the Roman Church, which it might defend with obstinate purpose, and tear itself from the bosom of the true Church. Indeed, Roman Pontiffs have never refused to reconsider with equanimity, if the matter required it, that which they had judged with the consent of their clergy, together with an ecumenical synod..... We believe, therefore, that only the Catholic Church, being instructed by the teaching of the Holy Spirit, whatever represents it, the ecumenical synod, is that in which no defect concerning faith ever creeps in, neither through obstinacy nor through imprudence; but if the Roman clergy should err in anything, it must be directed, recalled, taught by the Catholic Church and its ecumenical synod, and it must be thoroughly corrected lest error take root. From this follows that the invincible firmness of the Roman Church and the Apostolic See consists in the firmness of the Catholic Church itself; which Catholic Church, since it is immovable by Christ’s promise, it is also necessary that the succession of Peter and the principal Church and

ita esse immotam, ut partem Ecclesiae principalem summeque necessariam; quae mater et magistra Ecclesiarum (singularum seorsum), totam ipsam Ecclesiam matrem ac magistram agnoscat.... Tum Papa in Christi nomine, respectu Ecclesiarum particularium est magister ille quidem, sed respectu Ecclesiae catholicae discipulus, cum in Ecclesiae catholicae consensione manifestum appareat Spiritus Sancti magisterium » Ibid. c. 14. Adhuc clarius error ostentatur approbatione doctrinae Petri Alliensis, qui cum aliis quibusdam theologis magnum schisma saeculi XV. sanare satagebat erroribus inductis circa ipsam divinam constitutionem Ecclesiae. « Cum ex Petro Alliensi aliud sit *sedes* aliud *se tens*, non mirum est aliquid convenire *sedi*, quod *sedenti* non conveniat, nempe ut sedes deficere non possit, cum sedens sit *deviabilis* etiam in iudicio de fide, quippe a quo indicante, etiam in causis fidei, ad Concilium generale secundum eundem auctorem appellare liceat.... Sedes Apostolica tametsi subiecta est universali Ecclesiae eamque repraesentanti Concilio generali, tamen suprema est respectu singularium Ecclesiarum, quemadmodum tradit non modo schola Parisiensis, sed etiam ipsum Constantiense Concilium » Ibid. c. 12. Cf. Zaccaria Antifebron. dissert. II. c. 10. n. 4. sqq. Ex iisdem principiis Febronius inferebat, posse scindi communionem cum Pontifice *sedente* et nihilominus servari illaesam cum *sede* Apostolica: « quaerenda et omni studio servanda est communio *cum ipso Papa sedente*, tum scilicet et quamdiu spiritum *sanctae Sedis* et Ecclesiae eius sectatur. » Vide Antifebron. vindicat. dissert. I. c. 4. n. 13. 14.

Roman See connected to it, being a necessary part of the Church, stand firm by that power which contains the whole.... Since these things are so, it appears that the Catholic Church is primarily immovable, to which it was said: the gates of hell shall not prevail against it, and: behold I am with you; but the Roman Church is immovable as a principal and supremely necessary part of the Church; which, though mother and teacher of Churches (individual ones separately), acknowledges the entire Church itself as mother and teacher.... Then the Pope in Christ's name, with respect to particular Churches is indeed that teacher, but with respect to the Catholic Church he is a disciple, since in the consensus of the Catholic Church the teaching of the Holy Spirit becomes manifest." Ibid. ch. 14. Still more clearly the error is displayed in the approval of the doctrine of Peter d'Ailly, who with certain other theologians was trying to heal the Great Schism of the 15th century through errors introduced concerning the very divine constitution of the Church. "Since according to Peter d'Ailly the *seat* is one thing and the *sitter* another, it is not surprising that something befits the *seat* which does not befit the *sitter*, namely that the seat cannot fail, while the sitter is *capable of deviation* even in a judgment concerning faith, from whom judging, even in cases of faith, it is permissible to appeal to a General Council according to the same author.... The Apostolic See, although it is subject to the universal Church and to the General Council representing it, is nevertheless supreme with respect to individual Churches, as not only the Parisian school teaches, but also the Council of Constance itself." Ibid. ch. 12. Cf. Zaccaria Antifebronius dissertation II. ch. 10. n. 4. ff. From the same principles, Febronius inferred that communion could be broken with the *sitting* Pontiff and nevertheless communion with the Apostolic *see* could be preserved unharmed: "communion with the *sitting Pope himself* must be sought and preserved with all diligence, then and so long as he follows the spirit of the *Holy See* and its Church." See Antifebronius vindicatus dissertation I. ch. 4. n. 13. 14.

[^2]: {org. 1} Longe alio sensu Tertullianus potestatem Petro collatam dicebat fuisse *personalem*. Is enim iam haereticus Montanista disputans contra « Apostolicum » et « Pontificem maximum, Episcopum Episcoporum, » qui sibi vindicabat potestatem in Petro institutam omnia « delicta poenitentia functis dimittendi, » negabat hanc potestatem ad successores Petri propagari, et hoc sensu eam dicebat *personalem* Petro (cf. l. de Pudicit. c. 1. et 21.). Designabat ergo hoc nomine potestatem *extraordinariam* ad excludendum ordinem (τάξιν) successionis, cuiusmodi erat gratia gratis data miraculorum, inspirationis ad scribendos libros s. Scripturae, novarum revelationum ad depositum fidei pertinentium: nos vero dicimus potestatem institutam *in una persona* ad significandam singularitatem tum in persona Petri velut primi stipitis tum in singulis heredibus perpetua serie sibi succedentibus.

[^3]: {org. 1} Dogmata intellige, quae *nova* sint propositione non revelatione; neque enim dantur dogmata quae non sint saltem implicite revelata per Christum vel Spiritum Sanctum in Apostolis, possunt tamen esse veritates revelatae nondum sufficienter propositae in Ecclesia ad obligandam catholicam fidem; et huiusmodi veritates quando infallibili definitione proponuntur ut revelatae, possunt hoc sensu dici *nova* dogmata.

[^4]: {org. 1} In 6. de renuntiatione cap. Quoniam (l. I. tit. 7. c. 1.). Formulam renuntiationis s. Coelestini refert Ciacconius, de qua vide Bellandianus T. IV. Maii p. 524.

[^5]: {org. 2} Quod Innocentius III. (serm. 3. de sua consecrat.) dixit: « in tantum fides mihi necessaria est, ut cum in ceteris peccatis Deum iudicem habeam, propter peccatum quod in fide committitur, possim ab Ecclesia iudicari, » et aliae similes propositiones haud difficulter intelligi possunt hypotheticae sub hypothesi numquam verificanda; sicut Paulus aiebat (Gal. I. 8.): « licet nos aut angelus de coelo

[^2]: {org. 1} In a far different sense, Tertullian claimed that the power conferred upon Peter was *personal*. For he, already a Montanist heretic, arguing against the “Apostolic” and “Supreme Pontiff, Bishop of Bishops,” who claimed for himself the power instituted in Peter of “forgiving all sins for those who had performed penance,” denied that this power was transmitted to the successors of Peter, and in this sense called it *personal* to Peter (cf. the book On Modesty, ch. 1 and 21). He thus designated by this term an *extraordinary* power to exclude the order (τάξιν) of succession, such as was the gratuitous gift of miracles, inspiration for writing the books of Holy Scripture, and new revelations pertaining to the deposit of faith. We, however, call it a power instituted *in one person* to signify singularity both in the person of Peter as the first root and in each of the heirs succeeding one another in perpetual series.

[^3]: {org. 1} Understand dogmas which are *new* in their proposition not in their revelation; for there are no dogmas which are not at least implicitly revealed through Christ or the Holy Spirit in the Apostles. There can, however, be revealed truths not yet sufficiently proposed in the Church so as to bind Catholic faith; and truths of this kind, when they are proposed by infallible definition as revealed, can in this sense be called *new* dogmas.

[^4]: {org. 1} In the 6th [book of Decretals] on renunciation, chapter “Quoniam” (Book I, title 7, chapter 1). Ciacconius relates the formula of renunciation of St. Celestine, concerning which see the Bollandists, Volume IV of May, page 524.

[^5]: {org. 2} What Innocent III (sermon 3 on his consecration) said: “Faith is so necessary to me that, whereas in other sins I have God as my judge, for a sin committed against the faith, I can be judged by the Church,” and other similar propositions can without difficulty be understood as hypothetical under a hypothesis that will never be verified; just as Paul said (Galatians 1:8): “But though we, or an angel from heaven, preach any

evangelizet vobis praeterquam quod evangelizavimus vobis, anathema sit. »

[^6]: {org. 1} Petrus Ballerinius (de Potestate eccles. Summorum Pontif. et Concil. generalium c. 9. §. 4. n. 17. 18.) etiam in hypothesi quòd Benedictus legitime electus et ideo verus usque ad ultima tempora fuerit Pontifex, acta Constantiensia explicare conatur. « Renuens accedere ad unitatem pontificatnì celere, persistens pertinacissime in manifesta separatione a corpore Ecclesiae catholicae iam adunatae, sese schismaticum et haereticum prodidit; ex quo in depositionis sententia ipsum synodus schismatis et haeresis nominibus ab Ecclesia praecisum et a pontificatu, quem praetendebat, depositum declaravit potius quam deposuit. » Haec omnia verissima sunt et optime intelliguntur, si ille numquam fuit verus Pontifex; sed in hypothesi veri pontificatus difficultates potius creant quam solvunt. Nam 1°. non ille ab Ecclesia, sed tota Ecclesia negando illi obedientiam ab ipso primitus secessit, cuiusmodi schisma totius corporis a suo legitimo capite fieri non posse, ex principio dogmatico perpetuae unitatis Ecclesiae certum videtur; 2°. quod dicitur « corpus Ecclesiae catholicae iam adunatae, haec adunatio facta esset per scissionem corporis a vero suo capite, quod divinae sapientiae et providentiae et subordinationi ipsius corporis lege divina debitae repugnat; 3°. quae Constantiae acta sunt praeter et contra leges a suprema potestate Pontificum statutas ad legitimam successorum Petri electionem, omnino indigebant sanctione per eandem supremam potestatem pontificiam; at huiusmodi sanctio nulla reperiri potest, si Benedicti pontificatus legitimus et consequenter Gregorius XII. antipapa fuisse supponatur.

[^7]: {org. 1} Huic iuris dispositioni de titulo colorato tum alia plura decreta tempore istius schismatis promulgata tum

other gospel unto you than that which we have preached unto you, let him be anathema.”

[^6]: {org. 1} Peter Ballerinius (in his work De Potestate ecclesiastica Summorum Pontificum et Conciliorum generalium, chapter 9, § 4, numbers 17-18) attempts to explain the acts of the Council of Constance even under the hypothesis that Benedict was legitimately elected and therefore remained a true Pontiff until the final period. He writes: “By refusing to accede to unity and to cede the pontificate, persisting most obstinately in manifest separation from the body of the Catholic Church already united, he revealed himself to be schismatic and heretical; wherefore in the sentence of deposition, the synod declared him rather than deposed him as cut off from the Church under the designations of schism and heresy, and as deposed from the pontificate which he claimed.” All these assertions are most true and perfectly comprehensible if he was never a true Pontiff; but on the hypothesis of a legitimate pontificate, they create difficulties rather than resolve them. For: 1) It was not he who seceded from the Church, but the entire Church that first seceded from him by denying him obedience, and such a schism of the entire body from its legitimate head seems impossible according to the dogmatic principle of the perpetual unity of the Church; 2) What is called “the body of the Catholic Church already united” – this unification would have occurred through the separation of the body from its true head, which is repugnant to divine wisdom and providence and to the subordination of the body itself that is required by divine law; 3) The actions taken at Constance beyond and contrary to the laws established by the supreme pontifical authority for the legitimate election of the successors of Peter absolutely required ratification by that same supreme pontifical power; yet no such ratification can be found if Benedict’s pontificate is supposed to have been legitimate and consequently Gregory XII to have been an antipope.

[^7]: {org. 1} Upon this legal disposition concerning a colorable title are based many other decrees promulgated during that schism, and

nominatim illud Alexandri V. in conventu Pisano innituntur: « Omnes dispensationes factas per Episcopos in partibus neutralibus (qui nempe nulli Pontificum adhaerebant)..... item omnes absolutiones et habilitationes in foro poenitentiali tam per contententes (Gregorium XII. et Petrum de Luna) quam per ordinarios praedictos schismate pendente factas, super casibus s. Sedi Apostolicae reservatis, ex certa scientia hoc sacro approbante Concilio ratificamus et approbamus » (Harduin. T. VIII. p. 22.).

especially that of Alexander V in the Council of Pisa: “All dispensations granted by Bishops in neutral territories (namely those who adhered to neither of the Pontiffs)..... likewise all absolutions and rehabilitations granted in the penitential forum both by the contenders (Gregory XII and Peter de Luna) and by the aforementioned ordinaries while the schism was pending, regarding cases reserved to the Holy Apostolic See, with certain knowledge and with the approval of this holy Council, we ratify and approve” (Harduin. Vol. VIII. p. 22.).