

Trismegistus Juris Pontificii Universi Seu Institutiones  
Canonicae Secundum Ordinem Quinque Librorum  
Decretalium Gregorii IX. PP. Max unà cum Elencho  
Titulorum (*Trismegistus of the Universal Pontifical Law, or  
Canonical Institutions According to the Order of the Five  
Books of the Decretals of Gregory IX, with a Title Index*)

by P. F. Cherubinus Mayr (Cherubino Mayr), 1742

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- OCR of the original text by AI (*claude-3-7-sonnet-20250219*).
- Translation of the original text performed by AI (*claude-3-7-sonnet-20250219*).
- Last Edit: April 1, 2025.
- Version: 1.0
- Selection pages: n/a

## Lib. 1, Tit. 6, S. 5

*Concerning the Election of the Supreme Pontiff.*

From Elections in general to certain Elections in particular, it is Decreed to proceed; firstly indeed to the Election of the supreme Head of the Church, the Roman Pontiff: afterward to the Election of the Roman Emperor, not because this election must also be Canonical, but because this election also owes its origin in its own way to the Roman Pontiff, as is evident from chapter Venerabilem 34. under this title. Finally to the Elections of Religious Orders.

### SUMMARY.

**119.** Formerly there were three methods of creating Pontiffs, but only the one through Election has remained. **120.** This method itself has varied over time. **121.** Today the right of electing belongs solely to the Cardinals. **122.** In its full extent. **123. 124.** What happens in the case where most or all of them were dead. **125.** Whether election sometimes belongs to Councils. **126. 127. 128. 129. 130.** Any male traveler [on earth, i.e., living person] who is of sound mind and faithful may be elected. **131.** Even if he is not from the College of Cardinals. **132.** Nor even if he is not a Cleric. **133.** Objection. **134.** Rites preceding the Pontifical Election. **135.** An Election is valid when done by inspiration, or quasi-inspiration. **136.** Similarly by Compromise. **137.** Doubt concerning limited [compromise]. **138.** The

most common method is by Scrutiny. **139.** Its procedure. **140.** The accession [additional voting] is also valid. **141.** Conclusion of the Election. **142.** Afterward repentance is not permitted, but consecration and coronation take place. **143.** Whether the Election can be challenged. **144.** Whether an election celebrated by a majority can ever be valid. **145.** How an election extorted by fear or obtained through simony might be impeded. **146.** Modification.

## POINT XXVI.

*With whom formerly was, and with whom today is, the right of electing the Roman Pontiff?*

**119.** RESOLUTION I. Gonzalez in *Chapter Licet 6, under this title, number 11* mentions three methods of creating Roman Pontiffs from ecclesiastical writers, namely through *institution, substitution, and election*. The form of *institution* was used only once on earth, specifically when Christ the Lord, Himself the High Priest and Pontiff, from whom the Holy Roman Church, redeemed by His own blood, received its Principality, *canon Ita Dominus 7, distinction 19*, instituted St. Peter, whom He had called *Blessed* and to whom He had promised the Primacy, *Matthew 16*, after His Resurrection as His Vicar on earth and Supreme Pontiff through the words: *feed my sheep*, John 21, *canon considerandum 53* and following, *distinction 50, chapter solita 6*, concerning Majority and Obedience, and said that he would be confirmed by Him: *I have prayed for you, that your faith may not fail*, Luke 22, *canon Sacrosancta 2, distinction 22*. Through *substitution* or *succession*, St. Clement is said to have obtained the Supreme Pontificate, whom St. Peter had designated as his successor in this office, as is related in *canon Si Petrus 1, VIII, question 1*, and *canon Simon Petrus, following*, with St. Clement himself asserting this in the first person. However, more recent interpreters of the law generally understand this substitution as merely a commendation by St. Peter, or an exhortation made to the faithful, adding that St. Clement himself later renounced this designation out of humility, and therefore did not immediately, but only as the third after St. Peter, namely after Linus and Cletus, ascend to the apex of the Supreme Pontificate, as taught by St. Augustine *epistle 165*, Epiphanius *heresy 27*, Gregory of Tours *book I, history, chapter 27*, and established at greater length by Baronius *year 69, number 38 and year 93, number 1*, as well as Bellarmine *book 2, concerning the Roman Pontiff, chapter 5*. All other Pontiffs received the Governance of the universal Church through the way of Election; yet not always in a uniform manner, as will become evident.

**120.** RESOLUTION II. From the glorious departure from this life to eternal Glory of St. Peter, when St. Clement, although designated as his Successor—or better, prophetically foretold—refused to succeed, lest he set a pernicious example to others, the election of the Supreme Pontiff began to belong to both the Clergy and the people together. Thus, the Pontiff was created by the votes of the Clergy and with the consent of the people, *can. Plebs 11. & throughout, dist. 63*. This mode of election continued until the Schism raised against St. Damasus by Ursicinus around the year 367. At this time, Emperor Valentinian I first, having rejected Ursicinus, exercised an act nearly similar to Confirmation regarding Pope Damasus, as attested by Socrates, Sozomen, and Theodoret, cited in Gonzalez *loc.*

*cit. n. 12.* Certain others followed his example, though only in cases of schism, as reported by the same author, until Emperor Justinian, after Italy was recaptured from the Goths, refused to allow anyone to be admitted as Roman Pontiff unless he himself had approved him. This custom, or rather abuse, persisted until Emperor Constantine IV, who at the urging of Pope Benedict II relinquished all power of creating a Pontiff back to the Clergy and people, as Jean Cabassut reports in *Notitia Ecclesiastica, 13th century, after the Second Council of Lyon, dissertation 2, n. 3.* But shortly before the Roman Empire was transferred from the Greeks to the Germans, it is said that Hadrian I granted a new privilege to Charlemagne, who had been called to aid against the Lombards, to elect or (if you prefer) nominate the Supreme Pontiff at his pleasure by his own authority. Gratian also inserted this into his Decree, *can. Hadrianus 22. dist. 63.*, asserting it was done with the consent of the Roman synod then assembled. And although Louis, the son of Charlemagne, again renounced this privilege, as referenced in *can. Ego Ludovicus 30. §. 1. in the same dist.*, nevertheless that same privilege is reported to have been newly granted by Pope Leo VIII to Otto I, King of the Germans, and his Successors, following the earlier example, *can. In synodo 23. dist. ead.* That this entire account is a fictitious fabrication inserted by Gratian into his compilation of the Holy Canons with excessive credulity is maintained by Baronius *Vol. 9, at the year 774*, Bellarmine, Gretser, Cabassut *loc. cit. n. 4.*, and others *cited in Gonzalez d. l. n. 12.* Therefore, they assert that the German Emperors were either mere usurpers of the right to elect the Pontiff, or merely Designators of those to be subsequently elected by the Roman Clergy. However, since the said Canons have been retained in the Decree by the Roman Correctors, and from the Bull of Gregory XIII prefixed to it, it is established that everything contained therein corresponds to its originals, I would not dare to reject the said Canons as fables. Rather, it should be believed that this role of electing Supreme Pontiffs was granted at that time to the Emperors by the Pontiffs, with the assent of the Clergy and people themselves, though only revocably, on account of their great merits toward the Church. But later, due to the abuse of successors, it was partly revoked and partly resigned again by the Emperors themselves for the sake of restoring peace, as was done in the Diet of Worms by Henry IV with the consent of the Imperial states, as Böckhn relates from Thomassin *in this title, n. 132.* Therefore

**121. RESOLUTION III.** The election of the Roman Pontiff today exclusively belongs to the College of Cardinals of the Holy Roman Church; concerning which there is canon 1, distinction 79, issued by Pope Nicholas II after a synod held by him in Rome in the year 1058, with the following content: *If anyone is enthroned in the Apostolic See without the harmonious and canonical election of the Cardinals of the same Church, and then of the following Religious Clerics, he is to be regarded not as Pope or Apostolic, but as an Apostate.* This agrees with canon “*Si quis pecunia*” 9, *in the same distinction*, and especially with canon “*In nomine Domini*” 1, *distinction 23*, where the entire form of Pontifical election is prescribed. This Decree, due to the resistance of certain Emperors, was later reassumed and confirmed under Pope Callistus II in the First Lateran General Council of 1122 and in the Provincial Council of Rheims, subsequently receiving the approval of the whole Church and general acceptance, continuing to the present day.

This Resolution proceeds I. not only regarding Cardinal Bishops, but also Cardinal Priests and Deacons, though not those established in lower orders, as ordained through special Bulls by Pius IV, Sixtus V, and Gregory XV, according to Fagnanus in *the cited chapter "Licet," number 18, under this title*, unless they have been enabled by a special papal privilege at their creation to have an active voice in the Papal Election. Cardinal de Luca in *Relation of the Roman Curia, discourse 3, number 10*. Schmier *book 1, treatise 3, chapter 1, number 635*.

It proceeds II. Even if they have not yet received the insignia of the Cardinalate; because neither the habit nor other insignia, but the nomination by the Pontiff, makes one a Cardinal. Barbosa *Ecclesiastical Universal Law, book 1, chapter 3, number 73*. Add, even if their mouth has not been opened, nor has been ordered to be opened: because this ceremony does not pertain to giving a vote in the Conclave, but in other Consistories. Fagnanus *in the cited place, number 19*.

It proceeds III. Even though Cardinals, properly created, may be found bound by some censure. Clementine [Constitution] "Ne Romani" 2, §. "Caeterum," under this title. González on chapter "Illa" 39, number 6, in the same place.

You ask, however, I. What if at the time of the election to be held, all Cardinals were dead or absent, except one or two?

**[Note: 122 is missing]**

**123.** It is answered that, in this case, the entire right of election would belong to that one, or those survivors, as was generally resolved above in POINT XVI, no. 70; for the College of Cardinals, no less than any other corporate body, can be preserved in one or two individuals. González *in the cited chapter 'licet', n. 13. near the end*. Cardinal de Luca in the place cited, n. 8 & 9. Schmier, *in the place above*, n. 640.

You ask secondly: What if all the Cardinals were dead?

**124.** It is answered that this doubt still persists in three different opinions; because some, following Baldus in L. *ubi absunt*, ff. *de Tutor, & Curat.*, say that the election would then belong to the Patriarchs; others, with Hostiensis in the said chapter *licet*, attribute the election in that case to the General Council (but who would convoke it, with the Pope and Cardinals deceased?). Others, and more cautiously than the rest, favor this honor for the Lateran Canons, as their Church is the proper seat of the Pontiff above all Churches of the City and the World. González in the place cited. Barbosa under this title, n. 75. Schmier n. 642.

You ask thirdly: When a General Council is assembled, does the election of a new Pope belong to it, or to the Cardinals alone?

**125.** It should be answered that a distinction must be made between the case of the death of a true and undoubted Pontiff, and the case of Schism, in which doubtful Pontiffs are deposed and a new undoubted one is elected, as was done in the General Council of

Constance. In the first case, the election of a new Pontiff belongs exclusively to the Lord Cardinals, as is evident from the example of the Council of Trent, during which, when Paul III departed from the living, the Cardinals alone elected his successor Julius III. Not to mention other Pontiffs—Marcellus II, Paul IV, and Pius IV—who indeed were elected by the Cardinals alone while that Council was not yet concluded, though suspended. In the other case, the Abbot in the *cited chapter licet* n. 8 judges it to be more true according to law that the election belongs to the Council. And although Schmier in the *cited location* n. 646 holds the opposite opinion along with Barbosa, the former opinion is nevertheless confirmed by the example of the Council of Constance, in which, although 20 Cardinals from the three Obediences of John XXIII, Gregory XII, and Benedict XIII of Luna were present, beyond these, thirty others as representatives of the Nations entered the Conclave in the year 1417 on November 8, and three days later together elected Odo Colonna, afterward called Martin V, as Supreme Pontiff, as attested by Cabassutius in the *aforementioned Council* n. 13.

## POINT XXVII.

*Who can be elected as Supreme Pontiff?*

**126. RESOLUTION I.** Any living human being can be validly elected as Supreme Pontiff, provided he is male, of sound mind, and faithful—that is, baptized and not a heretic. This is the common opinion, in agreement with Fagnano in *chapter nobis, de Simon. n. 40 & seqq.* where, considering the words of *cited chapter licet* 6. §. 1. which establish that *the one who has been elected and received by two concordant parts is to be considered the Roman Pontiff by the universal Church without any exception*: he distinguishes between intrinsic and substantial defects, and extrinsic and accidental defects, and states that objections can indeed be raised against the former even in papal elections, but not against the latter. This is because an election is invalidated by the former defects according to natural and Divine Law itself, while it is invalidated by the latter defects only according to human law, whose invalidating power regarding the Pontiff the Law itself has removed in *chapter Licet*, excepting those matters which are found specifically expressed either in the Body of Law or outside it in pontifical Constitutions, especially concerning the form of election, as will be made clear.

**127.** I have said first: *If only he be male*. Indeed, a woman is excluded from the Papacy by Divine Law itself; both because the Apostle does not even permit women to speak in Church (*1 Corinthians 14*), and because it is necessary that a Vicar be of the same profession (how much more of the same sex?) as the Principal, since people of disparate profession are forbidden in Divine Law itself to be joined in one and the same office, according to that passage of Deuteronomy 22: “*You shall not plow with an ox and an ass together*,” as is referenced in *canon In nova, distinction XVI, question 7*. But the Pope is the true Vicar of Christ, *Extravagantes, Unam Sanctam 1, inter communes de Maioritate et Obedientia*. Also because the Savior did not even grant to His own Mother, although blessed and exalted above all women, the keys of the Kingdom of heaven and the governance of His Church, *chapter Nova 10, de Poenitentia et remissione*. Therefore, if

even a horse, once ridden by the Vicar of Christ, would not afterward suffer a woman to sit upon it, as is related in the Roman Breviary on May 27, second reading, concerning St. John, Pope and Martyr; how shall the throne of the Supreme Pontiff support a woman?

**128.** Do not bring up against them that shameful fable—which the authors themselves ought to blush at—concerning Pope Joan, who is fictitiously claimed by them to have occupied Peter’s Chair for two years after Leo IV. How false this history is becomes evident from the fact that Anastasius, the Librarian of the Holy Roman Church, who lived and wrote during the time of Leo IV and his successor Benedict III, not only made no mention of this supposed Joan, but on the contrary recorded that Leo (whom she claims departed from the living in the year 853) extended his life until the year 855, and that Benedict III was appointed as his successor after 15 days, not without prodigious omens. The same was done by other historiographers who lived closer to those times, such as Ado, Bishop of Vienne in Gaul, who was contemporary with the said Leo, Regino of Prüm, Hermann of Reichenau, Otto of Freising, Lambert of Hersfeld, and others. Greater faith should certainly be placed in these writers than in Sigebert (who was otherwise little devoted to the Popes), Martin of Poland, and Marianus Scotus, from whose writings (perhaps corrupted) non-Catholics borrowed this fable.

**129.** I have said secondly, *Of sound mind*; since the election of an infant, or of one who is permanently, or at least at the time of election, insane or mentally incapacitated, is by natural law itself invalid, as an Election is like a certain contract, in which the Elected obligates himself to the Church in fulfilling those things which pertain to his office; however, an infant, or insane, or mentally incapacitated person cannot obligate himself in such a manner. Layman in *For. benef. part. 1. q. 233.* citing Passerinus. Nevertheless, a certain age in the Pontiff, who is otherwise of sound reason, is not required, as Fagnanus rightly observes in *cap. Cum in cunctis 7. h. t. n. 28.* after Abbas in *cap. licet, n. 10. h. t.* both because in *the said cap. licet*, there is an exception regarding age: and because the Holy Spirit, whose organ and instrument the Supreme Pontiff is in revealing his counsels, is bound to no condition nor age. Schmier *loc. cit. n. 667.*

**130.** I have said III. *And [he must be] Faithful, that is, baptized and not a heretic*; for if he is not baptized, since he cannot be a member of the Church, much less can he be its Head: if, however, he is a heretic, he is unfit to teach the Church, for which reason many Theologians teach that if the Pope (which God forbid) should fall into heresy, he would, by Divine Law itself, fall from the right of the Papacy. Nevertheless, it is piously to be believed that this would never be permitted by God, since Christ himself prayed for Peter (and because the same reasoning applies, also for his Successors), *that his faith may not fail*, certainly with respect to *public* faith in defining doctrine, but more probably also with respect to *private* faith in believing, concerning which Theologians treat extensively.

**131.** RESOLUTION II. Someone can be elected as Supreme Pontiff licitly and validly, even if he is not from the College of Cardinals, although if a suitable candidate is found within it, it is appropriate that he be preferred to outsiders. Thus in the Roman Council, Nicholas II, as referenced in *canon 1, §4, distinction 23*, speaking about the election of the Supreme

Pontiff, says: “*Let him be elected from the bosom of the Church itself, if a suitable person is found there, or if one is not found there, let him be chosen from elsewhere.*” This is confirmed by the examples of seven Pontiffs who were chosen from outside the College, namely: Eugene III, from being a simple Abbot; Urban IV, from being Patriarch of Jerusalem; Gregory X, from being an Archdeacon; Celestine V, from being a Hermit Monk; Clement V, from being an Archbishop; Urban V, from being an Abbot; and Urban VI, from being an Archbishop, as can be seen in Platina’s Lives of the Pontiffs and in other authors throughout.

**132. RESOLUTION III.** Furthermore, a layman can be validly elected to the Papacy, and indeed, if his merits prevail, even licitly. Cardinal de Luca in the cited place, number 22. Barbosa, book 1, number 78. Schmier, part 1, chapter 3. Pirhing here at number 433. Wiestner, number 17. Schmalzgrueber, number 97. This is taken from the cited chapter “Licet,” where it states: “*Without any exception*”; and from the Ceremonial of the Roman Church, which prescribes the form for ordaining and promoting a layman who has been elevated to the governance of the universal Church.

**133.** You may object: Both these Resolutions are manifestly contradicted by canon “Oportebat” 3 and canon “Nullus,” which follows in distinction 79, whereby, according to the institution of Lord Peter himself and his Successors, everyone other than Cardinal Priests and Deacons is excluded from the summit of the Pontificate. The response is that indeed this was once established, but without an invalidating clause: moreover, not even with a precept binding in the forum of conscience, but precisely to inculcate a duty of congruity.

## POINT XXVIII.

*What form must be observed in the Election of the Pontiff?*

**134. RESOLUTION I.** Before the Election, in conformity with chapter “Ubi periculum” 3 of this title in the Liber Sextus, from the Constitution of Gregory X issued in the Second General Council of Lyon, the following must be observed: I. That Cardinals who are absent should be awaited for ten days, counted from the death of the preceding Pontiff; before which time, even if the election is accelerated without reasonable cause, provided it is celebrated by two-thirds of the Cardinals, it remains valid, nor can the remaining Cardinals claim contempt, as was stated regarding Elections in general in POINT X, RESOLUTION 3. II. Once this ten-day period has elapsed, whether the absent Cardinals have arrived or not, from that point forward all Cardinals present must convene at the Papal Palace, in which meanwhile the Conclave has been prepared, with no intervening wall to divide it, enclosed on all sides, with only a window left open to receive necessities, and an exit reserved for access to the private chamber. Those who arrive late to the city, if the matter is still open, are admitted to the Conclave. Cardinal de Luca in the cited location, number 13 and following. III. The Cardinals in Conclave should each be content with only one servant, whether clerical or lay, as they choose, unless necessity suggests that some be allowed two, as is established in the cited chapter “Ubi periculum,” §1; sometimes, however, even

a third may be permitted. Apart from these, no one should have access to the same Cardinals, nor permission to speak secretly with them, nor should they admit anyone who comes to them, except those who are called by the will of all Cardinals present there, and only for matters pertaining to the pending election. It is also forbidden for anyone to send a message or writing to the Cardinals or to any one of them; whoever acts contrary to this by sending a writing or message, or by speaking secretly with any of them, ipso facto incurs the Sentence of Excommunication. Thus the same chapter §1, verse “In eodem.” And these procedures apply when the Pontiff dies in the city where he resided with his Curia. If, however, it happens that the same Pontiff departs from this life outside the aforementioned city where he resided with his Curia, the Cardinals are bound to convene in the City in whose territory or district the same Pontiff died, unless perhaps that place is under interdict or persists in open rebellion against the Roman Church; in which case they shall convene in another nearby city, in which, both with regard to waiting for those absent, as well as common habitation, enclosure, and all other matters, the same things shall be observed in the Episcopal residence or any other house assigned to the Cardinals, as were just now expressed above. Thus again the Pontiff in the cited chapter “Ubi periculum” 3, §2 of this title in the Liber Sextus.

**135. RESOLUTION II.** In the act of election, according to the new Constitution of Gregory XV, which begins with *Aeterni Patris*, one of the three forms of Election mentioned and explained in §. 1 of this title must be observed. And indeed, concerning Election by *true inspiration*, there can be no doubt that it is sufficient, since we cannot have a more certain judgment of Divine election than this kind of inspiration: in such a manner we read that St. Fabian was elected in his Life by Baronius in the year 238, when a dove descended from on high and, perching on his back, a voice was heard: *You shall be designated Bishop of Rome*. Similarly, however, Election by *presumed inspiration*, or *quasi-inspiration*, is also approved, namely when all Cardinals present in the Conclave, without any previous discussion concerning a specific person to be elected, one [Cardinal] names someone, and all the others unanimously assume and proclaim him as Supreme Pontiff by the word *Elect*, as noted by Fr. Wiestner in this title, number 360.

**136. II.** Concerning Compromise, it is furthermore certain from the Constitution of Gregory XV which begins “Decet” (issued on the 4th of the Ides of March 1621), and in the enclosed Ceremonial of Papal Election, that it is valid whether absolute or limited, e.g., that the Compromisers elect someone from the Sacred College or an outsider, on whom all three, or two of them have agreed, or within a certain time, etc. Although at one time, with others thus compromising, the Election was valid when a Compromiser elected himself (as John Villani in *book 9, ch. 79*, St. Antoninus in *Part 3, title 21, ch. 4*, and Alphonsus Ciaconius record concerning John XXII, as mentioned by Christopher Ott of the Society of Jesus in *Roma Gloriosa no. 268*), nevertheless, by the Constitution *Aeterni* §. 20, this has been nullified. So much so that in the election of a Pontiff, not even through accession can one Compromiser nominated by another Compromiser complete his own election and obtain a majority, although this may be valid in other elections, according to *chapter Cum in Jure 33. b. 1* and what was said above in *POINT 7, RESOLUTION 3, no. 31*, since the vote of one electing himself is generally nullified in *n. Considerat*. Thus says Fr. Wiestner *on this title*,



no. 362, adding however, that from the mere fact that someone gave his vote to himself, the election is not invalidated, provided that the election made by others, even without his vote, has the required number of votes.

However, a deeply perplexing doubt remains: whether a Compromise would be valid if it were limited in such a way that the Compromissaries would elect as Supreme Pontiff the person upon whom the greater part of the Cardinals present had agreed?

**137.** It is answered with Father Wiestner *here in numbers 364 and following* by distinguishing two forms of Compromise. For either the Sacred College compromises in such a way that the Compromissaries [delegates] so entrusted, having collected the secret ballot votes of each Cardinal, gain the consent of the greater part of the Sacred College, according to the norm prescribed in *chapter Cum dilectus 32 under this title*. Or simply in such a way that they elect him in whom the greater part of the Cardinals present have agreed in whatever manner. If the first, since such a compromise includes the form of election *by Scrutiny*, neither the compromise itself nor the election resulting from it is valid; inasmuch as by virtue of Gregory's Constitution *Aeterni*, §. 19., for the validity of a Pontifical Election *by Scrutiny*, the secret votes of two-thirds of the Cardinals are required, but in the said hypothesis this would not be observed. If the second, it is valid; because the aforementioned Gregorian Constitution does not prescribe a certain form for a pure Compromise, or one not including election by Scrutiny, but only cautions that in no way, even by virtue of *chapter Cum in Jure, cited*, may any of the Compromissaries be elected by his own vote. Wherefore, as Compromise is valid according to common law in elections of inferiors *chapter in Causis 30 under this title*, it will also be valid in the election of the Pope. Fagnanus in *chapter licet* number 57 under this title.

**138.** III. The most common method of election is by Scrutiny. Indeed, outside the Conclave, even if present in the City, no one is permitted to cast their vote, neither by letter nor by proxy; But Cardinals present within the Conclave, even if unable to come to the Chapel where the Scrutinies are held due to infirmity, are nevertheless allowed to vote by placing their ballots in a certain sealed box, which before each Scrutiny is brought to them by three Cardinals appointed by lot; and after they have inserted their ballots through an opening, it is returned, from which the ballots are subsequently extracted and placed in the chalice designated for receiving votes. Furthermore, three Scrutineers are designated from the College of Cardinals itself, to be changed every three days; whose votes, to prevent any fraud, are scrutinized by three others. Having taken an oath upon the Gospels to observe what must be observed, each Voter approaches the Altar in order and casts into the chalice, which had served for that day's sacrifice, their ballot, on which their vote is written in this manner (*I, Cardinal N., elect as Supreme Pontiff the Most Reverend Lord N.*), sealed with their ring on that part where they have written their name, but open on the other part, where the name of the elect is written.

**139.** Afterward, the Scrutineers conduct the Scrutiny, reading, and publication of each of the Ballots cast into the Chalice. And indeed, if after the collation of votes, more than two-thirds have converged on one person, he is immediately proclaimed as the legitimately

created Pontiff. If precisely two-thirds have converged on one person, the ballot of the elect is opened, from which if it appears that the elect gave himself one vote, the election is considered null due to the deficiency of one vote. But if it appears that he cast his vote for another, the Election is proclaimed as canonical.

**140.** If two-thirds of the Cardinals have not agreed upon anyone, they may, through the process of Accession (which is permitted only during any Scrutiny), complete the number of two-thirds if they wish, not only by acceding to him for whom the majority voted, but also to him for whom the minority, or even just one Cardinal has consented. This is done by writing the name of the person to whom they intend to direct their vote on the Ballot. However, one who does not wish to accede is not compelled to do so, but may instead of the name of the Pope to be elected inscribe the word *Nemini* ["To No One"]. This procedure must also be observed for the infirm Cardinals, to each of whom a sheet containing the names of the Cardinals and the number of those nominated in the Scrutiny, along with a new Ballot prepared for accession, is brought by the first three Cardinals with the same small box, into which the infirm Cardinal casts his Ballot with the name of his chosen candidate inscribed, or in its place the word *nemini*, and it is then returned.

**141.** After the Access is thus completed, the Scrutineers tally the votes which each candidate received in both the Scrutiny and the Access combined. If no one has attained two-thirds, the election is invalid, and they must proceed to a new Scrutiny. If, however, one person has reached two-thirds or more, the procedure which we noted for the Scrutiny before the Access is observed. Finally, if more than one person receives two-thirds or more of the votes, in the case of an equal number of votes, no one is considered elected; but in the case of an unequal number, he who is superior in the number of votes shall be considered elected. All these procedures are established in *chapter Licet* §. *h. t.* and in *Periculum* 3. *eod. in* 6. *Clem. Ne Romanis* 2. *d. t.* The Constitution of Clement VII which begins *Cum Clarissimus*, October 26, 1529; of Paul IV, *Cum secundum*, 1554; of Pius IV, *In eligendis*, 1562; of Gregory XV, *Aeterni*, 17 Kalends of December, and *Decet*, 4 Ides of March 1621; and of Urban VIII, Constitution *Ad Romanum*, 5 Kalends of February 1625; joined with the Ceremonial mentioned above.

**142.** RESOLUTION III. As soon as the Election of the Supreme Pontiff has been canonically completed according to the prescribed manner, the Cardinals, having fulfilled their duty, can no longer change their minds; but as stated in the *cited chapter "Licet"*, he who has been elected by two-thirds of those in agreement, and not less, must be regarded as the Roman Pontiff by the universal Church without any exception—provided that the consent and acceptance of the Elect himself has been given, which is absolutely necessary for the spiritual marriage between him and the Church, initiated through such election, to be ratified. Once this occurs, he immediately obtains from God the full administration of his powers without any other confirmation, according to *Canon 1, distinction 23*. For his power is not from man but from God, as Innocent states in *Chapter "Novit" 13, on judgment*. At this time he also customarily changes his name, following the example of Christ, who called his disciple Simon, whom He designated to govern the Church, by the new name of *Cephas*, that is, *Peter*, so that he who from a sheep became a shepherd might also be

distinguished from the sheep by his name. Before his Consecration and Coronation, however, his spiritual marriage with the Church is not considered consummated and perfected; thus, the time between his election and these ceremonies he calls not “of his Apostolate” but only “of the accepted Apostolic office,” as the Gloss notes in *Dating of the rules of law in 6, V. Pontificate*.

A doubt arises here: whether the Election of the Supreme Pontiff may be subsequently challenged?

**142.** It is answered that an objection can be raised by citing either defects in natural and Divine law itself rendering one unable to receive the Pontificate, e.g., that he is an infant, insane, a woman, not yet baptized, or a heretic, according to the preceding Point; because such defects cannot be remedied by human law; or by raising exceptions against the substantial form or freedom of the election, e.g., that it was not celebrated with the consent of two-thirds united in agreement, or that some of the electors notoriously lacked the power to elect, such as laypeople or clerics who are not Cardinals; or that the election was extorted through grave fear unjustly directed toward the election of this person; or that it was simoniacal; because if such a person was *enthroned in the Apostolic See, he is to be considered not Apostolic, but Apostatical*, according to canon “*Si quis pecunia*” 9, *distinction 79*, the Constitution of Julius II beginning “*Cum tam Divino*”, issued in the Lateran Council, *Session 5*, and the Council of Constance, *Session 39*, Fagnanus in *chapter “Licet”, n. 20, “De electione”*. However, an objection cannot be raised by citing excommunication whether of the electors or of the elected, defect of birth, of Holy Orders, of clerical status, of gentleness, or any other irregularity. Review what was said in *n. 126*.

But you may further inquire whether, therefore, through the unanimous consent of the Cardinals, it cannot be made valid that an election of a Pontiff be celebrated by a majority of the Sacred College?

**144.** It is answered that this cannot be done except in the case admitted above in *n. 137*; because although by common law this could be defended, insofar as after such an agreement one elected by the majority would be considered elected not only by the majority part but by the entire College, just as one who is elected by Compromissaries with the prior consent of the entire Chapter making the compromise, *arg. cap. in causis 30. h. t.* where it says: *on account of which it is understood to be done unanimously with the consent of the whole chapter*, nevertheless, given the Gregorian Constitution beginning *Aeterni Patris*, it does not seem possible that through an agreement, even a unanimous one of the Cardinals, such an election would be valid; because it thoroughly invalidates every election of the Supreme Pontiff conducted outside the form prescribed by it, as stated in §. *Quod si*, where it says: *But if such an election shall have been celebrated elsewhere than in a closed Conclave, or otherwise than by secret ballots of two-thirds of the Cardinals present in the Conclave in the Scrutiny, or in the Scrutiny & Access, not counting the vote of the person elected, or by way of Compromise entered into by all Cardinals likewise present in the Conclave, with no one dissenting, and in such a way that no one elected himself, or as if by inspiration with no preceding discussion about any*

*specific person by all Cardinals equally present in the Conclave, commonly, with no one likewise dissenting, expressed through the word “I Elect” pronounced in an intelligible voice, or in writing if it could not be by voice, it is null and invalid by that very fact without any declaration, and confers no right on the one so elected: indeed, he is not Apostolic, but Apostate, and should be considered as such, etc. Thus far the text.* The reason is: both because this public law was introduced in favor of the universal Church, to which private agreement cannot renounce, cap. si diligenti 12. de for. compet., and because the assembly of Cardinals cannot change the Pontifical Constitution concerning the election of the Pope, as is expressly stated in Clem. Ne Romani, h. t., and because the invalidating decree in the Gregorian Constitution establishes an opposing form. Bald[us] in L. 1. ff. de liber. & posthum. Moreover, one cannot renounce the form, as Bartol[us] notes in L. de his, ff. de transact.

**145.** Do not object that this and similar Constitutions concerning an election extorted by fear, or a simoniacal election, are only of human law, and therefore do not bind the Supreme Pontiff, since an equal has no authority over an equal, as in chapter *innotuit* 20 on this topic. For it is answered that the Predecessor Pontiffs could not indeed establish Constitutions that would bind a truly and canonically elected Pontiff, but they could nonetheless prescribe the form and conditions to be necessarily observed in the election itself by the Cardinals as inferiors, which if not observed, would result in no one becoming a true and legitimate Pontiff, as Wiestner correctly states here at number 371.

**146.** Note, however, that although such an election conducted contrary to the form or conditions prescribed by human law is invalid by the law itself, sometimes nevertheless, where the defect is hidden, it may be validated by the acceptance of the universal Church, according to the mind of the Most Eminent Palavicini on faith, chapter 7, number 104, Haunold, and other Theologians. By which reasoning, in past centuries, many elections of Pontiffs who were intruded either by force or through simony were healed by the subsequent acceptance of the universal Church, and those so elected became true and legitimate Successors of St. Peter.